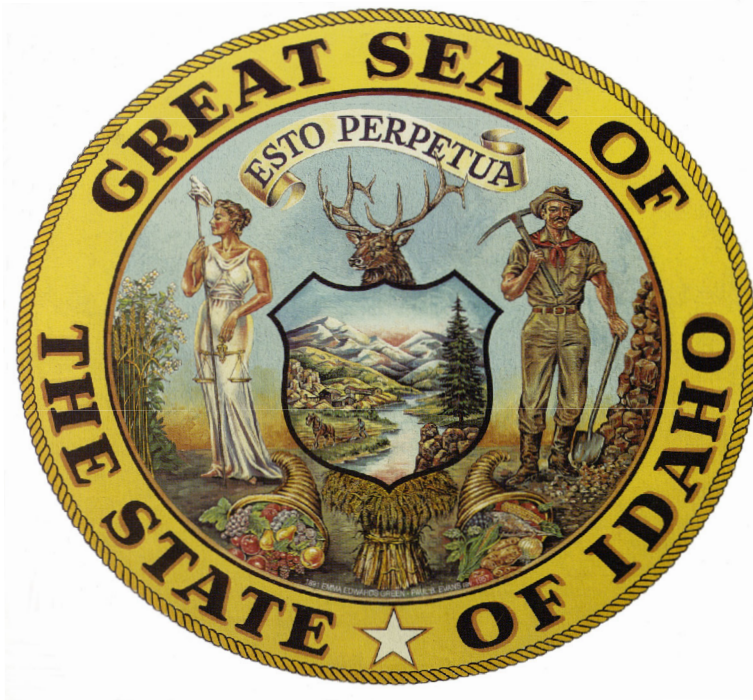


# IDAHO ADMINISTRATIVE BULLETIN

July 3, 2024 – Vol. 24-7

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



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# PREFACE

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

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

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

## CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **19-1** refers to the first Bulletin issued in calendar year **2019**; Bulletin **20-1** refers to the first Bulletin issued in calendar year **2020**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **19-1** refers to January 2019; Volume No. **20-2** refers to February 2020; and so forth. Example: The Bulletin published in January 2019 is cited as Volume **19-1**. The December 2019 Bulletin is cited as Volume **19-12**.

## RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

## THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

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

## **1. NEGOTIATED RULEMAKING**

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

## **2. PROPOSED RULEMAKING**

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

## **3. TEMPORARY RULEMAKING**

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

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

If a rulemaking meets one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

## **4. PENDING RULEMAKING**

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

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

## **5. FINAL RULEMAKING**

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



## HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

### **IDAPA 38.05.01.200.02.c.ii.**

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

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

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

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

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

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

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

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

## DOCKET NUMBERING SYSTEM

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

### **“DOCKET NO. 38-0501-1901”**

“**38-**” denotes the agency’s **IDAPA** number; in this case the Department of Administration.

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

“**1901**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2019**. A subsequent rulemaking on this same rule chapter in calendar year 2019 would be designated as “**1902**”. The docket number in this scenario would be 38-0501-**1902**.

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**BULLETIN PUBLICATION SCHEDULE FOR YEAR 2023**

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
23-2	February 2023	December 23, 2023	January 6, 2023	February 1, 2023	February 22, 2023
23-3	March 2023	January 27, 2023	February 10, 2023	March 1, 2023	March 22, 2023
23-4	April 2023	February 24, 2023	March 10, 2023	April 5, 2023	April 26, 2023
23-5	May 2023	March 24, 2023	April 7, 2023	May 3, 2023	May 24, 2023
23-6	June 2023	April 21, 2023	May 5, 2023	June 7, 2023	June 28, 2023
23-7	July 2023	May 26, 2023	June 9, 2023	July 5, 2023	July 26, 2023
23-8	August 2023	June 23, 2023	July 7, 2023	August 2, 2023	August 23, 2023
23-9	September 2023	July 21, 2023	August 4, 2023	September 6, 2023	September 27, 2023
23-10	October 2023	August 18, 2023	<b>*September 1, 2023</b>	October 4, 2023	October 25, 2023
23-11	November 2023	September 22, 2023	October 6, 2023	November 1, 2023	November 22, 2023
23-12	December 2023	October 27, 2023	November 9, 2023	December 6, 2023	December 27, 2023
24-1	January 2024	November 13, 2023	<b>**November 27, 2023</b>	January 3, 2024	January 24, 2024

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24-7	July 2024	May 24, 2024	June 7, 2024	July 3, 2024	July 24, 2024
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24-9	September 2024	July 19, 2024	August 2, 2024	September 4, 2024	September 25, 2024
24-10	October 2024	August 16, 2024	<b>*August 30, 2024</b>	October 2, 2024	October 23, 2024
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25-1	January 2025	November 15, 2024	<b>**November 29, 2024</b>	January 1, 2025	January 22, 2025

**\*Last day to submit a proposed rule for the rulemaking to remain on course for review by the upcoming legislature.**

**\*\*Last day to submit a pending rule to be reviewed by the upcoming legislature.**

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<b>IDAPA 28</b>	<b>Commerce</b> , Idaho Department of
<b>IDAPA 06</b>	<b>Correction</b> , Idaho Department of
<b>IDAPA 08</b>	<b>Education</b> , State Board of and State Department of
<b>IDAPA 32</b>	<b>Endowment Fund Investment Board</b>
<b>IDAPA 58</b>	<b>Environmental Quality</b> , Department of
<b>IDAPA 12</b>	<b>Finance</b> , Idaho Department of
<b>IDAPA 13</b>	<b>Fish and Game</b> , Idaho Department of
<b>IDAPA 15</b>	<b>Governor</b> , Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Military Division (Division of Homeland Security) (15.06) Idaho State Liquor Division (15.10)
<b>IDAPA 48</b>	<b>Grape Growers and Wine Producers Commission</b> , Idaho
<b>IDAPA 16</b>	<b>Health and Welfare</b> , Department of
<b>IDAPA 41</b>	<b>Health Districts</b> , Public
<b>IDAPA 45</b>	<b>Human Rights Commission</b>
<b>IDAPA 17</b>	<b>Industrial Commission</b> , Idaho
<b>IDAPA 18</b>	<b>Insurance</b> , Idaho Department of
<b>IDAPA 05</b>	<b>Juvenile Corrections</b> , Department of
<b>IDAPA 09</b>	<b>Labor</b> , Idaho Department of

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 20</b>	<b>Lands, Idaho Department of</b>
<b>IDAPA 52</b>	<b>Lottery Commission, Idaho State</b>
<b>IDAPA 24</b>	<b>Occupational and Professional Licenses, Division of (24.20)</b> Accountancy, Board of (24.30) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Athletic Commission, State (24.02) Barber and Cosmetology Services Licensing Board (24.28) Building Safety, Division of (24.39) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, State Board of (24.31) Denturity, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Engineers and Land Surveyors, Board of Licensure of Professional (24.32) Genetic Counselors Licensing Board (24.24) Geologists, Board of Registration for Professional (24.04) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Medicine, Board of (24.33) Midwifery, Board of (24.26) Morticians, Board of (24.08) Nursing, Board of (24.34) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Outfitters and Guides Licensing Board (24.35) Pharmacy, Board of (24.36) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Real Estate Commission (24.37) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters Board, Idaho Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23) Veterinary Medicine, State Board of (24.38)
<b>IDAPA 43</b>	<b>Oilseed Commission, Idaho</b>
<b>IDAPA 50</b>	<b>Pardons and Parole, Commission of</b>
<b>IDAPA 26</b>	<b>Parks and Recreation, Idaho Department of</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 11</b>	<b>Police, Idaho State</b> Alcohol Beverage Control (11.05) Brand Board (11.02) Commercial Vehicle Safety (11.13) Forensic Laboratory (11.03) Motor Vehicles (11.07) Peace Officer Standards and Training Council (11.11) Public Safety and Security Information (11.10) Racing Commission (11.04)
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
<b>IDAPA 61</b>	<b>Public Defense Commission, State</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>
<b>IDAPA 57</b>	<b>Sexual Offender Management Board</b>
<b>IDAPA 60</b>	<b>Soil and Water Conservation Commission, Idaho State</b>
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>
<b>IDAPA 35</b>	<b>Tax Commission, State</b>
<b>IDAPA 39</b>	<b>Transportation Department, Idaho</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission, Idaho</b>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2024-05**

**PROMOTING FAMILIES AND PROTECTING CHILDREN**

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*WHEREAS, my goal is to make Idaho the place where we all can have the opportunity to thrive, where our children and grandchildren choose to stay, and for the ones who have left to choose to return; and*

*WHEREAS, the Department of Health and Welfare is uniquely equipped to carry out significant elements of this goal for Idaho; and*

*WHEREAS, the Department's commitment to improve the foster system by supporting and promoting foster families and enabling them to do their good work will pay dividends in the lives of both the foster families and the children they assist for years to come; and*

*WHEREAS, the Department has the statutory tools and the authorization in this order to promote families, support life, and protect children at all stages of life; and*

*NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state do hereby order that:*

1. *The Department shall work collaboratively with community stakeholders to promote families and strengthen child welfare by:*
  - a. *Building partnerships with non-profit providers to better serve mothers and babies. This can be accomplished by forging new ways to collaborate with non-profit providers and by understanding the full breadth of departmental offerings and the services provided by non-profit partners.*
  - b. *Promoting adoption and reducing barriers to adoption for children in the Department's care.*
  - c. *Seeking opportunities to increase the number and types of foster families, including:*
    - i. *Promoting kinship care and licensure;*
    - ii. *Adopting nationally recognized models of licensure for non-relatives and kin;*
    - iii. *Strengthening trust and retention of current foster families through enhanced communication and grievance processes;*
    - iv. *Undertaking efforts to better engage faith-based communities in foster care recruitment.*
    - v. *Facilitating timely termination of parental rights in accordance with law.*
    - vi. *Supporting youth aging out of the foster system to promote long-term success.*
  - d. *Promoting early intervention programs that identify and target services to at-risk youth and families, with a goal of preventing involvement in the child welfare system.*
  - e. *Enhancing inter-agency coordination on child services to ensure a complete continuum of care.*
  - f. *Embedding family-centered decision-making into rules, grants, sponsorships, and other key agency decisions.*
2. *The Department of Health and Welfare shall provide a report no later than December 1, 2024 of actions taken in response to this executive order, and make recommendations for any legislation, rules, policies, or practice changes that may be necessary to better promote families and protect children.*



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**PHIL MCGRANE**  
**SECRETARY OF STATE**

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 7th day of June, in the year of our Lord two thousand and twenty-four, and of the Independence of the United States of America the two hundred forty-eighth, and of the Statehood of Idaho the one hundred thirty-fourth.*

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**BRAD LITTLE**  
**GOVERNOR**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2024-06**

**PROTECTING IDAHO WATER SOVEREIGNTY ACT**

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*WHEREAS, water is the lifeblood of Idaho and we must be good stewards of this finite resource for current and future generations or we risk handing control of our water over to the federal government, courts, or other states; and*

*WHEREAS, Idaho is an agricultural state – its farmers are the backbone of the state’s economy and Idaho celebrates the contributions that all farmers make to our outstanding way of life; and*

*WHEREAS, Idaho must maintain its water sovereignty and not turn out like other western states that rely on the Rio Grande River and those in the Colorado River Basin where the federal government stepped in to supersede the state’s control of its water. Idaho must take action today to ensure a safe, reliable, and sustainable water supply into the future, which is why the State of Idaho championed over half a billion dollars in recent years to improve Idaho’s water security through water supply projects, like cloud seeding, recharge, raising Anderson Ranch Dam, and the Mountain Home Air Force Base water supply pipeline as well as infrastructure modernization and repair statewide; and*

*WHEREAS, the Governor hosted a Water Summit in August of 2023 with hundreds of Idaho stakeholders to identify challenges and potential solutions to water issues in Idaho; and*

*WHEREAS, the Governor directed the Idaho Department of Water Resources to create the Eastern Snake Plain Aquifer (ESPA) Groundwater Management Plan Advisory Council which has met regularly since 2023 with a goal of creating a groundwater management plan for ESPA; and*

*WHEREAS, while these efforts demonstrate a commitment to Idaho’s water resources, additional efforts will be required to address future challenges; and*

*WHEREAS, the Snake River and ESPA are hydraulically connected resources that provide water for agriculture, communities, fisheries, energy production, and recreation; and*

*WHEREAS, the ESPA has been in a state of decline since the 1950s, and significant disputes have arisen over the conjunctive administration of the ESPA and Snake River; and*

*WHEREAS, in 2024, following a curtailment order issued by the Director of the Idaho Department of Water Resources, the surface water users and groundwater users worked together and crafted a solution to avoid water curtailment for the 2024 irrigation season (the 2024 Stipulation), demonstrating the “Idaho Way” of getting things done; and*

*WHEREAS, the State of Idaho recognizes a meaningful long-term solution, one developed through the collaborative efforts of the surface water users and groundwater users, is necessary to ensure a stable water supply into the future; and*

*NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order and direct the following:*

- 1. To improve understanding of the aquifer, the Idaho Department of Water Resources will coordinate efforts to bolster and improve water supply modeling technology through partner organizations. The effort will require the partnership of universities, industry, farmers, ranchers, and others.*



2. *The Governor will recommend the Idaho Legislature convene the Interim Natural Resources Committee prior to the 2025 legislative session to identify predictable and consistent opportunities to enhance the state's water infrastructure.*
3. *The Idaho Water Resource Board will prioritize funding for projects that have net benefits to the ESPA while making water use more efficient.*
4. *The Governor will bring together industries and stakeholders to propose solutions to long-term water sustainability because the ingenuity of the private sector is far more desirable in seeking solutions than relying on the government to do so.*
5. *The Eastern Snake Plain Aquifer Groundwater Management Plan Advisory Council will continue to meet to create a Groundwater Management Plan to be submitted for review by the Idaho Department of Water Resources, as required by law, by September 1, 2024.*
6. *Concurrently, as required by the 2024 Stipulation, the groundwater users and surface water users will meet to establish an improved mitigation plan as soon as possible, no later than October 1, 2024.*



**PHIL MCGRANE**  
**SECRETARY OF STATE**

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho on this 26th day of June in the year of our Lord two thousand and twenty-four, and of the Independence of the United States of America the two-hundred forty-eighth, and of the Statehood of Idaho the one hundred thirty-fourth.*

**BRAD LITTLE**  
**GOVERNOR**

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.02.12 – BONDED WAREHOUSE RULES**  
**DOCKET NO. 02-0212-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 69-231, 22-3418, 22-3419, 22-3421, 22-103 (20), 25-203, 25-207, 25-207B, 25-212, 25-804, 25-3704, 22-5404, Idaho Code.

**MEETING SCHEDULE:** Public meetings for these negotiated rulemakings will be held as follows:

***MEETINGS SET FOR PUBLIC PARTICIPATION  
VIA TELEPHONE AND WEB CONFERENCING***

<b>IDAPA 02.02.12 – Bonded Warehouse Rules</b>	
<b>Wednesday, July 10, 2024</b>	<b>Tuesday, July 30, 2024</b>
<i>Scheduled time is 8:30 a.m. to 11:30 a.m. (MT) for all meetings</i>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the ISDA at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The ISDA intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The ISDA will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

Incorporated by reference documents presented for review will be part of informal negotiated rulemaking and stakeholders will provide input on that process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd Knight at [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: [www.agri.idaho.gov/rulemaking](http://www.agri.idaho.gov/rulemaking).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 31, 2024.

DATED this 3rd day of July, 2024.

Lloyd Knight  
Deputy Director  
Idaho Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, Idaho 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS**  
**FOR GROUND WATER PROTECTION**

**DOCKET NO. 02-0301-2401 (ZBR CHAPTER REWRITE)**

**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 69-231, 22-3418, 22-3419, 22-3421, 22-103 (20), 25-203, 25-207, 25-207B, 25-212, 25-804, 25-3704, 22-5404, Idaho Code.

**MEETING SCHEDULE:** Public meetings for these negotiated rulemakings will be held as follows:

***MEETINGS SET FOR PUBLIC PARTICIPATION***  
***VIA TELEPHONE AND WEB CONFERENCING***

<b>IDAPA 02.03.01 – Rules Governing Pesticide Management Plans and Groundwater Protection</b>	
<b>Monday, July 8, 2024</b>	<b>Wednesday, July 31, 2024</b>
<i>Scheduled time is 1:00 p.m. to 4:00 p.m. (MT) for all meetings</i>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the ISDA at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The ISDA intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The ISDA will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

Incorporated by reference documents presented for review will be part of informal negotiated rulemaking and stakeholders will provide input on that process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd Knight at [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: [www.agri.idaho.gov/rulemaking](http://www.agri.idaho.gov/rulemaking).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 31, 2024.

DATED this 3rd day of July, 2024.

Lloyd Knight  
Deputy Director  
Idaho Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, Idaho 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.03.03 – RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-2402

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-3421, Idaho Code.

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

<b>Thursday, July 11, 2024</b> <b>8:30 a.m. to 11:30 a.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Idaho State Department of Agriculture</b> <b>2270 Old Penitentiary Road</b> <b>Boise, ID 83712</b> <b>Conference Rooms 1 and 2</b>

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

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

This rule is being presented to be in compliance with H.549, which was passed by the Idaho Legislature in the 2024 session and signed into law by the Governor on March 18, 2024. The legislation amended how licenses for chemigation applicators are categorized by separating those licenses from the federal FIFRA categories. This rule proposes a simplified process for the acquiring and maintenance of those licenses.

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

H.549 included an emergency clause, meaning the changes went into effect immediately with the Governor's signature. A temporary rule is necessary to ensure that the rule is in compliance with the amended statute as the department begins issuing licenses for the 2024 season.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no changes to fees in the rule, except for breaking the chemigation license fees out from the other license categories. The amended statute does not identify changes in fees.

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

There is no negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because HB 549 was passed by the Idaho Legislature and signed into law by the Governor on March 18, 2024. This rule proposes a simplified process that meets the legislation requirements that were passed.

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

U.S. Code of Federal Regulations (CFR) Title 40, Part 165, Subpart E. “Standards for Pesticide Containment Structures,” Sections 165.80 through 165.97: As a delegated authority that implements the requirements and regulations of the U.S. Environmental Protection Agency, it is important that the federal regulations are incorporated into this rule.

U.S. Code of Federal Regulations (CFR) Title 40, Chapter 1, Part 171. “Certification of Pesticide Applicators”: As a delegated authority that implements the requirements and regulations of the U.S. Environmental Protection Agency, it is important that the federal regulations are incorporated into this rule.

Restrictions For Use Of The Livestock Protection Collars (Compound 1080). The incorporation of this document is important because it provides the guidelines for the use of Livestock Protection Collars and the restriction governing that use.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of July, 2024.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT**  
**OF DOCKET NO. 02-0303-2402**  
**(Only Those Sections With Amendments Are Shown.)**

### 02.03.03 – RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

#### 000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-3421, Idaho Code.

(7-1-24)(7-1-24)T

#### 001. ~~TITLE AND SCOPE.~~

~~01. Title. The title of this chapter is IDAPA 02.03.03, “Rules Governing Pesticide and Chemigation Use and Application.”~~

(7-1-24)

~~02. Scope. This chapter governs the use and application of pesticides; licensing of pesticide applicators; registration of pesticides; and responsibilities for chemigation in Idaho.~~

(7-1-24)(7-1-24)T

#### 002. – 003. (RESERVED)

#### 004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference:

(7-1-24)

01. U.S. Code of Federal Regulations (CFR) Title 40, Part 165, Subpart E. “Standards for Pesticide Containment Structures,” Sections 165.80 through 165.97 that may be viewed at [https://www.govregs.com/regulations/title40\\_chapter1\\_part165\\_subpartE](https://www.govregs.com/regulations/title40_chapter1_part165_subpartE). [71 FR 47422, Aug. 16, 2006, as amended at 73 FR 64228, Oct. 29, 2008]

(7-1-24)(7-1-24)T

02. U.S. Code of Federal Regulations (CFR) Title 40, Chapter 1, Part 171. “Certification of Pesticide Applicators” that may be viewed at [https://www.govregs.com/regulations/title40\\_chapter1\\_part171](https://www.govregs.com/regulations/title40_chapter1_part171). [82 FR 1028, Jan. 4, 2017]

(7-1-24)(7-1-24)T

03. Restrictions For Use Of The Livestock Protection Collars (Compound 1080). <https://agri.idaho.gov/main/wp-content/uploads/2020/06/LPC-RESTRICTIONS.pdf>. [82 FR 1042, Jan. 4, 2017]

(7-1-24)(7-1-24)T

#### 005. -- 009. (RESERVED)

#### 010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in In addition to Section 22-3401, Idaho Code, and the following are defined as definitions:

(7-1-24)(7-1-24)T

01. **Antimicrobial Pesticides.** Substances or mixture of substances used to destroy or suppress the growth of harmful microorganisms such as bacteria, viruses, or fungi on inanimate objects and surfaces. (7-1-24)

02. **Certification.** Passing one (1) or more examinations, to initially demonstrate an applicant’s competence, as required by the licensing provisions of this act, in order to use or distribute pesticides, or to act as a pesticide consultant. (7-1-24)

03. **Chemigator.** Any person engaged in the application of chemicals through any type of irrigation system. (7-1-24)

04. **Hazard Area.** Cities, towns, subdivisions, schools, hospitals, or densely populated areas. (7-1-24)

05. **High Volatile Esters.** Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (7-1-24)

06. **Janitorial Services.** Surface cleaning or surface sanitation operations that use pesticides. Janitorial services extend to households and buildings and may include, but are not limited to; bathroom, food storage/



processing, food service, retail sales, office, maintenance, educational, government and other like facilities. (7-1-24)

**07. Limited Supervision.** The supervision of a professional commercial apprentice by a supervising applicator licensed in the categories necessary for the pesticide application. The supervising applicator is limited to supervision of two (2) professional commercial apprentice applicators at one (1) time and must maintain immediate communications (voice, radio, cellular telephone, or similar) with the supervised applicators for the duration of all pesticide applications. (7-1-24)

**08. Low Volatile Esters.** Formulations of 2,4-D; 2,4-DP; MCPA and MCPB which contain butoxyethanol, propylene glycol, tetrahydrofurfuryl, propylene glycol butyl ether, butoxy propyl, ethylhexyl and isooctyl esters. (7-1-24)

**09. Mixer-Loader.** Any person who works under the supervision of a professional applicator in the mixing and loading of pesticides to prepare for, but not actually make, applications. (7-1-24)

**10. On-Site Supervision.** A noncertified applicator may apply general use and restricted use pesticides under on-site supervision by a professional applicator with the required license categories. The supervising pesticide applicator must be physically at the site of application, must have visual contact with the pesticide applicator, and must be able to direct the actions of the noncertified pesticide applicator. The supervising applicator may not supervise more than two (2) noncertified pesticide applicators at one (1) time. (7-1-24)

**11. Pesticide Drift.** Movement of pesticide dust or droplets through the air at the time of application or soon after, to any site other than the area intended. (7-1-24)

**12. Recertification.** The requalification of a certified person through seminar attendance over a set period of time, or taking an examination at the end of a set period of time, to ensure that the person continues to meet the requirements of changing technology and maintains competence. (7-1-24)

**13. Seminar.** Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (7-1-24)

**14. Sprinkler Irrigation.** Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface. (7-1-24)

**15. Waters of the State.** Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (7-1-24)

**011. -- 099. (RESERVED)**

#### **SUBCHAPTER A – LICENSING OF APPLICATORS AND DEALERS**

##### **100. PROFESSIONAL APPLICATOR LICENSING.**

To obtain a professional applicator's license an applicant must: (7-1-24)

**01. Submit Application.** Submit an application prescribed by the Department with applicable fee (Section 280). (7-1-24)

**02. Demonstrate Competence.** (7-1-24)

**a.** All professional applicators must pass the Applicator Core Competency exam in addition to any other category. Professional applicators may only ~~chemigate~~, make pesticide recommendations, or make pesticide applications for any purpose for which they have demonstrated competence. Competence is demonstrated by passing Department examinations and becoming licensed in categories described in Subsection 100.04. ~~(7-1-24)~~~~(7-1-24)~~~~T~~

**b.** An applicant will demonstrate core competency in all standards outlined in 40 CFR 171.103(c). (7-1-24)

**03. Certification and Department Examination Procedures.** Be certified by passing Department examinations with a minimum score of seventy percent (70%) in the applicable pesticide categories (Subsection 100.04). Examinations shall adhere to standards outlined in 40 CFR 171.103(a)(2). In addition, examinations are:

(7-1-24)

- a. Proctored by ISDA staff or by an authorized agent following approved Department procedures. (7-1-24)
- b. Retaken after a minimum waiting period of one (1) day. (7-1-24)
- c. Scores valid for twelve (12) months from the date of the examination. (7-1-24)
- d. It is prohibited to: (7-1-24)
  - i. Attempt to cheat, or otherwise obtain an unfair advantage on the exam(s). (7-1-24)
  - ii. Remove or attempt to remove any test questions or responses or any notes from a testing session. (7-1-24)
  - iii. At any time, improperly access or attempt to improperly access the test site, the test (or any part of the test), an answer key, or any information about the test. (7-1-24)
  - iv. Engage in any way in: (7-1-24)
    - (1) Theft or attempted theft of test content through platform intrusion. (7-1-24)
    - (2) Post-exam manipulation of test content, responses, or test administration data. (7-1-24)
    - (3) Attempting to adversely impact the exam proctor, test center, or testing platforms through any means including cybersecurity means. (7-1-24)
  - v. Attempt to give or receive assistance, including by copying or through the use of an answer key. (7-1-24)
  - vi. Record or copy information during the testing session including questions, answers, identifying information about the version or form of a test, or any other information that compromises the security of the test. (7-1-24)
  - vii. Communicate with other test takers or other individuals in any form while testing is in session. (7-1-24)
  - viii. Allow anyone to see your test questions or answers or attempt to see or copy others' test questions or answers. (7-1-24)
  - ix. Consult notes, other people, electronic devices, textbooks, or any other resources during the test or during breaks. (7-1-24)
  - x. Have subject-related information on your clothing, shoes, or body. (7-1-24)
  - xi. Use or access any prohibited items including devices or aids such as, but not limited to, mobile phones, smartwatches, fitness trackers, other oral or written communication devices or wearable technology, cameras, notes, and reference books, etc., during or in connection with the test, including during breaks. (7-1-24)
  - xii. Fail to turn in or store away a mobile/smartphone in accordance with the test site's collection process. (7-1-24)
  - xiii. Use a prohibited calculator. (7-1-24)

xiv. Deliberately attempt to and/or take the test for someone else or attempt to have someone else impersonate you to take the test. (7-1-24)

**04. Categories.** All professional applicators must be certified in Applicator Core Competency in one (1) or more of the following categories:

Category Name	Category Description
Applicator Core Competency (CO)	Includes general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling and laws. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(c). This category is required for all Idaho Professional Pesticide Applicator Licenses
Agricultural Crop Pest Control (AC)	This category applies to <del>commercial</del> <u>professional</u> applicators who use or supervise the use of pesticides in production of agricultural commodities including grasslands, and non-crop agricultural lands. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(1)(i).
Aerial Pest Control (AA)	For application of pesticides to all application sites by operating or flying fixed-wing or rotary aircraft. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(15).
Anti-Fouling Coatings (FC)	For applicators who use or supervise the use of anti-fouling coatings to control fouling organisms on aquatic vessels, underwater structures, and other similar structures. An applicant will demonstrate practical knowledge of problems caused by fouling organisms, methods of control using fouling organisms using through anti-fouling coatings, characteristics of antifouling coatings, alternative active ingredients other than copper-based paints, and best management practices for application and removal of anti-fouling coatings.
Agricultural Livestock Pest Control (LP)	For professional applicators who use or supervise the use of pesticides on animals or to places on or in which animals are confined. Certification in this category alone is not sufficient to authorize the purchase, use, or supervision of use of products for predator control listed in the General Vertebrate category or outlined in 40 CFR 171.101(k)(l). An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(1)(ii).
Aquatic Weed and Pest Control (AP)	For professional applicators who use or supervise the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in as specified in the Public Health (PH) category. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(5).
<del>Chemigation (CH)</del>	<del>For professional applicators who apply chemicals through an irrigation system, excluding applications made to control aquatic organisms. The application of pesticides through a chemigation system will require additional relevant professional applicator categories. An applicant will demonstrate practical knowledge of chemigation including backflow prevention, minimizing risks related to chemigation, and approved chemigation equipment.</del>

Category Name	Category Description
Consultant and Research (CR)	For consultations or recommendations to supply technical advice concerning the use of agricultural pesticides and for the application or supervision of the use of restricted use pesticides (RUPs) for no compensation, to demonstrate the action of the pesticide or conduct research with restricted use pesticides. For all demonstration additional relevant professional applicator categories will be required. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(10).
Forest Pest Control (FP)	For professional applicators who use or supervise the use of pesticides in forests, forest nurseries and forest seed production. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(2).
General Vertebrate Control (GV)	For controlling vertebrate pests such as large and small predators, rodents, and birds by Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service (APHIS). This category applies to professional applicators who use or supervise the use of sodium cyanide and sodium fluoroacetate to control regulated predators. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(11-12).
Industrial, Institutional, and Structural Pest Control – Commodity (CP)	For professional applicators who use or supervise the use of pesticides on manufactured products or commodities in the following: Food handling establishments, packing houses, and food-processing facilities; and industrial establishments, including commodity storage facilities, grain elevators, and any other similar areas, public or private, for the protection of stored, processed, manufactured products, or commodities. Applicators must demonstrate a practical knowledge of pests associated with manufactured products or commodities, including recognizing those pests and signs of their presence, their habitats, their life cycles, biology, and behavior as it may be relevant to problem identification and control. Applicators must demonstrate practical knowledge of types of formulations appropriate for control of pests associated with manufactured products or commodities, and methods of application that avoid contamination of food, minimize damage to and contamination of areas treated, minimize acute and chronic exposure of people and pets, and minimize environmental impacts.
Industrial, Institutional, and Structural Pest Control – Non-Commodity (IP)	For professional applicators who use or supervise the use of <del>restricted use</del> pesticides in, on, or around the following: food handling establishments, packing houses, and food-processing facilities; human dwellings; cooling towers; air washers; evaporative condensers; swimming pools; pulp and paper mills; sewer treatment; residential and commercial building; institutions, such as schools, hospitals, and prisons; and industrial establishments, including manufacturing facilities, warehouses, and any other structures and adjacent areas, public or private, for the protection of health, dwellings, structures, and stored, processed, or manufactured products. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(7).
Non-Soil Fumigation (NS)	For professional applicators who use or supervise the use of a pesticide to fumigate anything other than soil. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(14).
Ornamental Pest (OP)	For professional applicators who use or supervise the use of pesticides to control pests in the maintenance and production of ornamental plants and turf. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(3).

Category Name	Category Description
Public Health Pest (PH)	For State, Tribal, Federal or other governmental employees and contractors who use or supervise the use of pesticides in government-sponsored public health programs for the management and control of pests having medical and public health importance. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(8).
Regulatory Pest Control (RP)	For State, Tribal, Federal, or other local governmental employees and contractors who use or supervise the use of <del>restricted use</del> pesticides in government-sponsored programs for the control of regulated pests. Certification in this category does not authorize the purchase, use, or supervision of use of products for predator control pesticides listed in the General Vertebrate category or outlined in 40 CFR 171.101(k)(l). An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(9).
Right-of-Way Herbicide (RW)	For professional applicators who use or supervise the use of pesticides in the maintenance of roadsides, powerlines, pipelines, and railway rights-of-way, and similar areas. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(6).
Seed Treatment (ST)	For professional applicators using or supervising the use of pesticides on seeds in seed treatment facilities. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(4).
Soil Fumigation (SF)	For applying soil fumigation pesticides to agricultural fields, plant nurseries, and other similar growing media for the growing of agricultural commodities, excluding rodent control. An applicant will demonstrate competency standards outlined in 40 CFR 171.103(d)(13).

~~(7-1-24)~~(7-1-24)I

**a.** Professional Commercial Apprentice License. For conducting General Use Pesticide (GUP) applications only in situations applicable to the ~~MP CP~~, OP, AC, IP, and RW categories. To obtain a professional commercial apprentice license the applicant must pass the Applicator Core Competency exam with a minimum score of seventy percent (70%) or better, and meet the requirements as outlined in Section 100. Persons with this license may only perform pesticide applications under limited supervision of a properly certified professional applicator. Applicators with this license cannot supervise other pesticide applicators. The professional commercial apprentice license may not be reciprocated with other participating agencies. This license will expire one (1) year from the date of issuance. The professional commercial apprentice license is non-renewable. ~~(7-1-24)~~(7-1-24)I

**b.** Professional applicators who engage in janitorial services and use pesticides for cleaning, surface sanitation, and similar activities using general use pesticides with the labeled signal words Warning or Caution, are exempt from professional applicator licensing requirements as outlined in Sections 22-3404 (2)(3)(4), Idaho Code. (7-1-24)

**05. Financial Responsibility.** Submits written proof of financial responsibility by any of the following methods: (7-1-24)

**a.** Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; (7-1-24)

**b.** A bond that is approved by the Director; (7-1-24)

**c.** A cash certificate of deposit in escrow with a bank or trust company; (7-1-24)

- d. An annuity issued by an insurance company, bank or other financial institution found acceptable to the Director; (7-1-24)
- e. An irrevocable letter of credit issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. (7-1-24)
- f. Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and remain on file with the Department until it is released, canceled or discharged by the Director. Any certificate of deposit, annuity, or irrevocable letter of credit must maintain a cash value equal to the requirements of Subsection 100.05.h., less any penalty for early withdrawal. Accrued interest upon a certificate of deposit or annuity shall be payable to the purchaser of the certificate or annuity. (7-1-24)
- g. Exclusions. Any exclusion to liability insurance, bond, cash certificate of deposit, annuity or irrevocable letter of credit coverage shall be listed on a form approved by the Director. (7-1-24)
- h. Minimum Coverage Required. (7-1-24)
- i. Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (7-1-24)
- ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (7-1-24)
- iii. Maximum deductible - five thousand dollars (\$5,000). (7-1-24)
- i. Target Property Not Required to Be Covered. The immediate property being treated is not required to be covered. (7-1-24)
- j. Cancellation or Reduction. The applicator must notify the Department in writing immediately after cancellation or reduction below the requirements of the financial coverage. (7-1-24)(7-1-24)T

**06. Licensing Periods and Recertification.** The recertification period for professional applicators will be concurrent with their two (2) year licensing period, beginning at the license issuance, and ending upon license expiration. For a professional applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, expire on December 31st in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, expire on December 31st in every even-numbered year. The apprentice license may not be recertified and will expire one year from the date that it was issued. Recertification requirements may be accomplished by complying with either Subsection 100.06.a. or 100.06.b. Any professional applicator with less than thirteen (13) months in the licensing period is not required to obtain recertification credits during the initial licensing period. Any license holder who fails to accumulate the required recertification credits prior to the expiration date of their license will be required to pass the appropriate examination(s) before being licensed. (7-1-24)

- a. Continuing Education: To recertify, an applicator must accumulate sixteen (16) recertification credits during their recertification period, by attending Department-accredited pesticide seminars which meet the following criteria: (7-1-24)
- i. One (1) credit is issued for each fifty (50) minutes of instruction. (7-1-24)
- ii. To request accreditation for a seminar not provided by the Department, an applicant must submit a written request to the Department ~~not less than thirty (30) days prior to the scheduled seminar~~. Applications received prior to thirty (30) days shall receive preference for credit approval and have the ability to amend their application until the seminar is held. Applications received after ~~the~~ thirty (30) days shall be reviewed by the Department as time and workload allows. (7-1-24)(7-1-24)T
- iii. The number of credits to be given will be decided by the Department and may be revised if it is later found that the training does not comply. Credit is given only for those parts of seminars that deal with pesticide

subjects as listed in Subsection 100.02.b. No credit will be given for training given to persons to prepare them for initial certification. (7-1-24)

iv. Verification of attendance at a seminar is accomplished by validating the attendee's pesticide license, using a method approved by the Department. Verification of attendance must be submitted with the license renewal application. (7-1-24)

v. Excess credits may not be carried over to the next recertification period. (7-1-24)

vi. Upon ~~earning the recertification credits as described above, license holder is recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months after the expiration date of the license~~ completing all licensing requirements for recertification, the license holder is recertified for the next licensing period. Licenses may be renewed up to twelve (12) months after the expiration date of the license. (7-1-24)(7-1-24)T

**b.** Recertification by Examination: A certified applicator who passes the Department's Applicator Core Competency (CO) examination plus examinations for all categories in which intend to license. (7-1-24)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (7-1-24)

ii. The examination procedures as outlined in Subsection 100.03 will be followed. (7-1-24)

**c.** The Department may grant variances in the recertification of professional applicators' and dealers' licenses. Issuance of variances will not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. The request will be on a Department-prescribed form and state fully the grounds for requesting a variance. (7-1-24)

**d.** Licenses are eligible for renewal no sooner than forty-five (45) days from the expiration date. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. PRIVATE APPLICATOR LICENSING.**

To obtain a private applicator's license, an applicant must: (7-1-24)

**01. Submit Application.** Submit an application prescribed by the Department with applicable fee(s) (Section 250); (7-1-24)

**02. Demonstrate Competence.** (7-1-24)

**a.** Private applicators may only ~~chemigate or~~ make pesticide applications using RUP's in categories for which they have demonstrated competency by passing a Department examination based on a US EPA approved Core/Private Applicator manual. The examination must follow the procedures outlined in Subsection 100.03. (7-1-24)(7-1-24)T

**b.** An applicant will demonstrate competency in all standards outlined in 40 CFR 171.105(a). Demonstrate competence as outlined for Professional Applicators (Subsection 100.01). (7-1-24)

**03. Categories.** Private applicators must be certified in the Private Applicator category as a prerequisite to all other private applicator license categories:

Category Name	Category Description
Private Applicator (PA)	For use or supervision of restricted use pesticides to produce agricultural commodities on land owned or operated by applicator or applicator’s employer. Certification in this category alone is not sufficient to authorize the purchase, use, or supervision of use of products for predator control listed in the predator control categories outlined in 40 CFR 171.105(b)(c). PA is prerequisite for all Idaho Private Applicator license categories. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(a).
Aerial Pest Control (AA)	For application of pesticides to all sites owned or operated by an applicator or applicator’s employer by operating or flying fixed-wing or rotary aircraft. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(f).
Chemigation (CH)	<del>For application of chemicals through an irrigation system, excluding pesticides to control aquatic organisms. Chemigation of pesticides will require additional relevant private applicator categories. An applicant will demonstrate practical knowledge of chemigation including backflow prevention, minimizing risks related to chemigation, and approved chemigation equipment.</del>
Non-Soil Fumigation (NS)	For applicators who use or supervise the use of a pesticide to fumigate anything other than soil. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(e).
Soil Fumigation (SF)	For applying soil fumigation pesticides to agricultural fields, plant nurseries, and other similar growing media on land owned or operated by applicator or applicator’s employer for the growing of agricultural commodities, excluding rodent control. An applicant will demonstrate competency standards outlined in 40 CFR 171.105(d).

(7-1-24)(7-1-24)T

**04. License Periods and Recertification.** The recertification period for private applicator will be concurrent with their two (2) year licensing period, beginning at the license issuance, and ending upon license expiration. Licenses belonging to private applicators with last names beginning with A through L, expire on the last day of the month listed on the chart in Subsection 150.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, shall expire on the last day of the month listed on the chart in Subsection 150.03.a., in every even-numbered year. Recertification and relicensing may be accomplished by complying with either Subsection 150.03.b. or 150.03.c. Any person with less than thirteen (13) months in the initial licensing period is not required to obtain recertification credits for the initial period. Any license holder who fails to accumulate the required recertification credits prior to the expiration date of their license will be required to pass the appropriate examination(s) before being licensed. (7-1-24)

**a. Licensing schedule.**

Last Name		Month to License
Odd Year	Even Year	
A-D	M-P	March
E-H	Q-T	July
I-L	U-Z	October

(7-1-24)

**b. Continuing Education:** To recertify, and applicator must accumulate seven (7) credits during their recertification period by attending Department-accredited pesticide seminars which meet the following criteria;



- (7-1-24)
- i. One (1) credit is issued for each fifty (50) minutes of instruction. (7-1-24)
  - ii. To request accreditation for a seminar not provided by the Department, an applicant must submit a written request to the Department ~~not less than thirty (30) days prior to the scheduled seminar~~. Applications received prior to thirty (30) days shall receive preference for credit approval and have the ability to amend their application until the seminar is held. Applications received after the thirty (30) days shall be reviewed by the Department as workload allows. ~~(7-1-24)~~(7-1-24)T
  - iii. The number of credits to be given will be decided by the Department and may be revised if it is later found that the training does not comply. Credit is given only for those parts of seminars that deal with pesticide subjects as listed in ~~Subsection 100.02-b, 40 CFR 171.105(a)~~. No credit will be given for training given to persons to prepare them for initial certification. ~~(7-1-24)~~(7-1-24)T
  - iv. Verification of attendance at an accredited seminar is accomplished by validating the attendee's pesticide license using a method approved by the Department. Verification of attendance must be submitted with the license renewal application. (7-1-24)
  - v. Excess credits may not be carried over to the next recertification period. (7-1-24)
  - vi. ~~Upon earning the recertification credits as described above, license holder is recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license completing all licensing requirements for recertification, the license holder is recertified for the next licensing period. Licenses may be renewed up to twelve (12) months after the expiration date of the license.~~ ~~(7-1-24)~~(7-1-24)T
- c. Recertification by Examination: A certified applicator passes the Department's private applicator examination(s) for all categories in which they intend to license. (7-1-24)
    - i. Examinations may be taken beginning the thirteenth (13th) month of the license period. (7-1-24)
    - ii. The examination procedures as outlined in Subsection 100.03 will be followed. (7-1-24)
    - iii. Upon passing the examinations, a person is eligible for license renewal for the next licensing period. For the purpose of becoming licensed, examination scores are valid for twelve (12) months after the date of the examination. (7-1-24)
  - d. The Department may issue variances for the requirements delineated in Subsection 150.03 in the recertification of private applicators' licenses. Issuance of variances do not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. The request will be on a Department-prescribed form and state fully the grounds for requesting a variance. (7-1-24)
  - e. Licenses are eligible for renewal no sooner than forty-five (45) days from the expiration date. (7-1-24)

**151. CHEMIGATOR LICENSING.**

- 01. Chemigator License Required. Anyone wishing to chemigate shall apply for a license to perform chemigation per the process outlined in this section. Additional category certifications may be required.** ~~(7-1-24)T~~
- 02. Applying for a Chemigator License. Prior to chemigating a person must:** ~~(7-1-24)T~~
  - a. Submit an application prescribed by the Department with applicable fees, and** ~~(7-1-24)T~~
  - b. Demonstrate competency through one of the following methods:** ~~(7-1-24)T~~

i. Complete a Department approved chemigation training within 12 months of submitting the application. Chemigation trainings for licensure must be a minimum of one (1) hour and at a minimum address the following content: (7-1-24)T

- (1) Backflow prevention devices, methods, and injection types; (7-1-24)T
- (2) The mitigation of potential risks associated with chemigation; (7-1-24)T
- (3) Pesticide label requirements for chemigation; (7-1-24)T
- (4) Identification of approved chemigation equipment; or (7-1-24)T

ii. Pass the Chemigation examination with a minimum score of seventy percent (70%). Examination scores are valid for twelve (12) months after the date of the examination. The examination must follow the procedures outlined in Subsection 100.03; or (7-1-24)T

iii. Verify compliance through another Department approved method. (7-1-24)T

03. License Periods. The licensing period will begin at license issuance and end upon license expiration. License periods will follow the schedule outlined in Section 150.03.a of this rule. Any person with less than thirteen (13) months in the initial licensing period is not required to test or attend chemigation training for the initial period. (7-1-24)T

~~154~~2. -- 199. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. RUP DEALER RECORDS REQUIREMENTS.**

**01. Records Requirements.** Maintain, in a location designated by the pesticide dealer, restricted use pesticide distribution records for ~~two~~ **three (23)** years, ready to be inspected, duplicated, or submitted when requested by the Director. Such records must include the following: (7-1-24)(7-1-24)T

- a. The name and address of the person purchasing or receiving the restricted use pesticide (RUP); and (7-1-24)
- b. The certified applicator name, license number, license issuing authority, relevant certification category, and expiration date of the license for the person certified to use the RUP; or (7-1-24)
- c. In the case of distribution of a RUP to another pesticide dealer, the name, license number, and expiration date of the license of the licensed pesticide dealer. (7-1-24)
- d. The brand name and Environmental Protection Agency (EPA) Registration Number for each RUP distributed and if applicable, include any emergency exemption or State special local need registration number; and (7-1-24)
- e. Date of the distribution of each RUP; and (7-1-24)
- f. The quantity and size of each RUP container distributed and the total quantity of RUP distributed; and (7-1-24)
- g. The pesticide dealer's name, address, and pesticide dealer license number distributing the RUP. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

SUBCHAPTER B – FEES

280. FEES.

01. **Pesticide Registration.** One hundred sixty dollars (\$160) per product. (7-1-24)

02. **Professional Applicator's License.** One hundred twenty dollars (\$120) per licensing period of ~~greater than fourteen~~ thirteen (13) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (7-1-24)(7-1-24)T

03. **Commercial Apprentice (CA) Applicator's License.** Sixty dollars (\$60) per licensing period of twelve (12) months or less. (7-1-24)

04. **Private Applicator's License.** ~~A Restricted Use Category,~~ Ten dollars (\$10); a Chemigation Category, twenty dollars (\$20); or thirty dollars (\$30) for both categories. (7-1-24)

05. **A Chemigation License.** Twenty dollars (\$20). (7-1-24)T

056. **Pesticide Dealer's License.** One hundred dollars (\$100) per licensing period of greater than fourteen ~~thirteen~~ (13) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. (7-1-24)(7-1-24)T

067. **Examination Fee per Examination Category.** Ten dollars (\$10). (7-1-24)

281. -- 349. (RESERVED)

SUBCHAPTER C – REGISTRATION AND USE OF PESTICIDES

350. EXPERIMENTAL PERMITS.

Any person who wishes to obtain an experimental permit to register a pesticide under Section 22-3402(5), Idaho Code, must file an application with the Department as outlines in Section 22-3402 which includes: (7-1-24)(7-1-24)T

01. **Name.** ~~Company name.~~ (7-1-24)

02. **Applicant.** ~~Name, address, and telephone number of the applicant.~~ (7-1-24)

03. **Shipment.** ~~Proposed date of shipment or proposed shipping period not to exceed one (1) year.~~ (7-1-24)

041. **Active Ingredient.** A statement listing the active ingredient. (7-1-24)

052. **Quantity Statement.** A statement of the approximate quantity to be tested. (7-1-24)

063. **Acute Toxicity.** Available data or information or reference to available data on the acute toxicity of the pesticide. (7-1-24)

074. **Statement of Scope.** A statement of the scope of the proposed experimental program, including the type of pests or organisms involved, the crops and animals for which the pesticide is to be used, the areas where the applicant proposes to conduct the program, and when requested by the Director, the results of previous tests. (7-1-24)

085. **Temporary Tolerance.** If the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to humans or animals, or illegal residues entering the food chain. A temporary tolerance is not needed if the food, feed, or fiber crop to which the experimental pesticide is applied will be completely destroyed after the data is collected. (7-1-24)

- 096. Proposed Labeling.** Proposed labeling which must bear: (7-1-24)
- a.** The prominent statement “For Experimental Use Only” on the container label and any labeling that accompanies the product. (7-1-24)
  - b.** An adequate caution or warning statement to protect those who may handle or be exposed to the experimental formulation. (7-1-24)
  - c.** Name and address of the applicant for the permit. (7-1-24)
  - d.** Name or designation of the formulation. (7-1-24)
  - e.** Directions for use. (7-1-24)
  - f.** A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients. (7-1-24)
- 407. Quantity Limit.** The Director may limit the quantity of pesticide covered by the permit or make such other limitations as may be determined necessary for the protection of humans or the environment. (7-1-24)
- 408. Experimental Use.** A pesticide for experimental use will not be offered for sale unless a written permit has been obtained from the Director. (7-1-24)

**351. -- 399. (RESERVED)**

**400. PESTICIDE RESTRICTIONS.**

- 01. Application of Restricted Use Pesticides by Noncertified Applicators.** A noncertified applicator may apply restricted use pesticides (RUPs) under on-site supervision by a professional applicator with the required license categories of the application being supervised if: (7-1-24)
- a.** Noncertified applicator has completed the following training within twelve (12) months prior to application: (7-1-24)
    - i.** EPA approved Worker Protection Standard (WPS) certification for pesticide handler training or equivalent. (7-1-24)
    - ii.** The safe operation of any equipment they will use for mixing, loading, transferring, or applying pesticides. (7-1-24)
  - b.** The noncertified application of any pesticide is prohibited for: (7-1-24)
    - i.** Soil or non-soil fumigation; (7-1-24)
    - ii.** Aerial application. (7-1-24)
    - iii.** Professional applications conducted by a person under eighteen (18) years of age. (7-1-24)
  - c.** Maintain noncertified applicator training records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. Such records shall contain: (7-1-24)
    - i.** Noncertified applicator’s printed name and signature. (7-1-24)
    - ii.** Date of training. (7-1-24)
    - iii.** Full name of the person who provided the training. (7-1-24)

- iv. Trainer’s qualification to conduct training. (7-1-24)
- v. Title or a description of the training provided. (7-1-24)
- vi. If the noncertified applicator is a licensed applicator who is not certified to perform the type of application being conducted while under on-site supervision by a professional applicator, the record must include all of the following information: (7-1-24)
  - (1) Noncertified applicator’s name. (7-1-24)
  - (2) Noncertified applicator’s license number. (7-1-24)
  - (3) Expiration date of the noncertified applicator’s license. (7-1-24)
  - (4) Certifying authority that issued the license. (7-1-24)
- d. Requirements for supervisors of noncertified applicators of RUPs under on-site supervision. A certified applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use a restricted use pesticide under their on-site supervision: (7-1-24)
  - i. The noncertified applicator must have access to the applicable product labeling at all times during its use. (7-1-24)
  - ii. Where the labeling of pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the noncertified application has been provided clean, label required personal protective equipment in proper operating condition and the personal protective equipment is used correctly. (7-1-24)
  - iii. The certified applicator must provide to each noncertified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site and the conditions of application might increase or decrease the risk of adverse effects. (7-1-24)
  - iv. The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment. (7-1-24)
  - v. The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under their direct supervision. (7-1-24)
  - vi. The certified applicator must be physically present at the site of the use being supervised. (7-1-24)
  - vii. The certified applicator must create or verify the existence of the records required by Subsection 400.01.c. of this rule. (7-1-24)
- 02. Application of General Use Pesticides by Noncertified Applicators.** A Professional Commercial Apprentice applicator may apply general use pesticides (GUPs) under ~~MP~~ CP, OP, AC, IP, and RW categories with limited supervision by a professional applicator that has the required license categories of the application being supervised if: (7-1-24)(7-1-24)I
  - a. All of the following conditions are met: (7-1-24)
    - i. The Professional Commercial Apprentice applicator has a valid license. (7-1-24)

ii. Immediate communication requirements exist between the supervising professional applicator and the Professional Commercial Apprentice applicator. (7-1-24)

b. Applications of RUPs are prohibited under the Professional Commercial Apprentice license. (7-1-24)

**03. Mixer-Loaders.** No person will act as a mixer-loader for a professional applicator without first obtaining annual training. (7-1-24)

a. Training will be conducted and certified by the professional applicator who employs the mixer-loader. Training recordkeeping requirements for mixer-loaders shall be the same as for noncertified applicators of restricted use pesticides under on-site supervision (see Subsection 400.01.c. of this rule.) (7-1-24)

b. Training requirements shall be the same as for noncertified applicators of restricted use pesticides under on-site supervision (see Subsection 400.01a. of this rule.) (7-1-24)

**04. Non-Domestic Pesticides Restrictions.** (7-1-24)

a. Home and Garden Restrictions. The following pesticides are to be registered only when labeled, distributed, sold or held for sale and use other than home and garden use and are not be sold to home and garden users or applied by professional applicators around any home or garden. (7-1-24)

i. Bidrin (Foliar applications). (7-1-24)

ii. Strychnine (one percent (1%) and above). (7-1-24)

iii. Zinc Phosphide (two point one percent (2.1%) and above). (7-1-24)

b. Ester Restriction. Low volatile liquid ester formulations of herbicides shall not be applied around any home or garden at any time when ambient air temperature exceeds or is forecasted to exceed eighty (80) degrees Fahrenheit during the day of application. (7-1-24)

**05. Restrictions to Protect Pollinators.** (7-1-24)

a. Bee Restrictions. Any pesticide that is toxic to bees shall not be applied to any agricultural crop when such crop is in bloom or when bees are actively foraging on blooming weeds in the crop being sprayed except during the period beginning three (3) hours before sunset until three (3) hours after sunrise. (7-1-24)

b. Green Pea Exception. In the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone: Green (white) pea crops may be sprayed or dusted at any time. (7-1-24)

c. Other Exceptions. Pesticides may be applied at any time to sweet corn for processing, hops, potatoes, and beans other than lima beans, subject to all other applicable regulations. (7-1-24)

**06. Deviations from Pesticide Labels and Labeling.** Any licensed professional or private applicator may deviate from pesticide label directions for use only as EPA or state laws, rules, and regulations permit. (7-1-24)

**07. Wind Velocity Restrictions.** No person will apply pesticides in sustained wind speeds that exceed the product label directions. If a pesticide label does not state a specific wind speed limitation, pesticides will not be applied in sustained wind conditions exceeding ten (10) miles per hour. (7-1-24)

a. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (7-1-24)

b. Approval for Use of Other Application Techniques. Other pesticide application techniques or methods may be approved by the Director or his agent on a case-by-case basis. (7-1-24)

c. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical label restricts the use of a pesticide for wind speed. (7-1-24)

**08. Phenoxy Herbicide Restrictions.** (7-1-24)

D: a. High Volatile Ester Restrictions. No aircraft pilot will apply high volatile ester formulations of 2,4- (7-1-24)

i. In Latah, Nez Perce, and Clearwater Counties in Idaho; or (7-1-24)

ii. Within five (5) miles of a susceptible crop or hazard area in any other county in Idaho. (7-1-24)

iii. Waiver of the restriction in Subsections 400.08.a.i. and 400.08.a.ii. may be issued on a project-by-project basis by the Director. (7-1-24)

b. Low Volatile Ester Restrictions. No aircraft pilot will apply low volatile ester formulations of 2,4-D; MCPA and MCPB: (7-1-24)

i. In Latah, Nez Perce, and Clearwater Counties in Idaho, unless ambient air temperatures are not above or expected to exceed eighty-five (85) degrees Fahrenheit within twenty-four (24) hours of the expected application time, or (7-1-24)

ii. Within one (1) mile of a hazard area in any other county in Idaho. (7-1-24)

iii. Waiver of the restriction in Subsection 400.08.b.i. may be issued on a project-by-project basis by the Director. (7-1-24)

c. A continuous smoke column or other device satisfactory to the Director will be employed to indicate to the pilot of any aircraft the direction and velocity of the airflow, and indicate a temperature inversion by layering of smoke, at the time and place of application when applying any formulation of 2,4-D; MCPA; MCPB and Dicamba. (7-1-24)

**09. Pesticide-Fertilizer Mix Restrictions.** No person will distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix. (7-1-24)

**10. Pesticide Drift Prohibitions.** The application of pesticides that results in drift outside of the target area is prohibited. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBCHAPTER D – CHEMIGATION**

**600. GENERAL CHEMIGATION REQUIREMENTS.**

**01. Pesticides Labeled for Chemigation.** The chemigator will use only pesticides labeled for chemigation when chemigating. (7-1-24)

**02. Monitoring Chemigation.** Licensed professional applicators that start the application of chemicals through chemigation equipment do not have to be present during the entire application, but must return to monitor the proper application at least once every four (4) hours for the duration of the application. (7-1-24)

**03. Chemigation Equipment Standards.** Equipment will be placed on the Department's list of approved chemigation equipment after the manufacturers provide to the Department verification that the equipment meets the standards in the Department's chemigation protocol. Prior to chemigating, all chemigation systems must

meet the requirements outlined in the Department's chemigation protocol. Chemigation system requirements are defined by the Department's chemigation system requirements protocol and the standards established in these rules.  
(7-1-24)(7-1-24)T

**04. Chemigating Over Waters of the State.** Shall be prohibited, except for variances allowed in Section 700. (7-1-24)

**601. -- ~~649~~999. (RESERVED)**

**~~650. IRRIGATION SYSTEMS.~~**

~~Defined in the ISDA Chemigation System Requirement Protocol document located at the department website at [www.agri.idaho.gov](http://www.agri.idaho.gov).~~ (7-1-24)

**~~651. — 999. (RESERVED)~~**



**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.04.03 – RULES GOVERNING ANIMAL INDUSTRY**  
**DOCKET NO. 02-0403-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 69-231, 22-3418, 22-3419, 22-3421, 22-103 (20), 25-203, 25-207, 25-207B, 25-212, 25-804, 25-3704, 22-5404, Idaho Code.

**MEETING SCHEDULE:** Public meetings for these negotiated rulemakings will be held as follows:

***MEETINGS SET FOR PUBLIC PARTICIPATION***  
***VIA TELEPHONE AND WEB CONFERENCING***

<b>IDAPA 02.04.03 – Rules Governing Animal Industry</b>	
<b>Friday, July 12, 2024</b> <b>1:30 p.m. to 4:00 p.m.</b>	<b>Tuesday, July 30, 2024</b> <b>1:00 p.m. to 4:00 p.m.</b>

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the ISDA at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The ISDA intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The ISDA will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

Incorporated by reference documents presented for review will be part of informal negotiated rulemaking and stakeholders will provide input on that process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd Knight at [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: [www.agri.idaho.gov/rulemaking](http://www.agri.idaho.gov/rulemaking).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 31, 2024.

DATED this 3rd day of July, 2024.

Lloyd Knight  
Deputy Director  
Idaho Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, Idaho 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-2401

#### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-110 and 22-4903, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Tuesday, July 9, 2024 8:30 a.m. to 11:30 a.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID 83712 Conference Rooms 1 and 2</b>

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking is being facilitated to remove now redundant language that is included in the Environmental & Nutrient Management Rule that underwent Zero Based Regulation (ZBR) review in 2023 and was approved by the Idaho Legislature in 2024. This rule was last open for ZBR review in 2022.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd B. Knight, Deputy Director, at (208)332-8615. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA website at the following web address: <https://agri.idaho.gov/laws-and-rules/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 24th day of May, 2024.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

**02.04.19 – RULES GOVERNING DOMESTIC CERVIDAE**

**DOCKET NO. 02-0419-2401**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 25-303, 25-305, 25-401, 25-601, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<p><b>Tuesday, July 9, 2024</b> <b>1:30 p.m. to 4:00 p.m. (MT)</b></p>
<p><i>In-person participation is available at:</i> <b>Idaho State Department of Agriculture</b> <b>2270 Old Penitentiary Road</b> <b>Boise, ID 83712</b> <b>Conference Rooms 1 and 2</b></p>

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

H 591 was passed by the Idaho Legislature and approved by the Governor during the 2024 Legislative Session. The legislation made certain changes to the quarantine process, sampling protocols, and requirements for domestic cervidae operations while under quarantine. This rulemaking will make the rule consistent and compliant with the legislation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA website at the following web address: <https://agri.idaho.gov/laws-and-rules/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 24th day of May, 2024.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**  
**02.05.01 – RULES GOVERNING PRODUCE SAFETY**  
**DOCKET NO. 02-0501-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 69-231, 22-3418, 22-3419, 22-3421, 22-103 (20), 25-203, 25-207, 25-207B, 25-212, 25-804, 25-3704, 22-5404, Idaho Code.

**MEETING SCHEDULE:** Public meetings for these negotiated rulemakings will be held as follows:

***MEETINGS SET FOR PUBLIC PARTICIPATION  
VIA TELEPHONE AND WEB CONFERENCING***

<b>IDAPA 02.05.01 – Rules Governing Produce Safety</b>	
<b>Monday, July 8, 2024</b>	<b>Monday, July 29, 2024</b>
<i>Scheduled time is 8:30 a.m. to 11:30 a.m. (MT) for all meetings</i>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov). For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the ISDA at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The ISDA intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The ISDA will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

Incorporated by reference documents presented for review will be part of informal negotiated rulemaking and stakeholders will provide input on that process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd Knight at [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: [www.agri.idaho.gov/rulemaking](http://www.agri.idaho.gov/rulemaking).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 31, 2024.

DATED this 3rd day of July, 2024.

Lloyd Knight  
Deputy Director  
Idaho Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, Idaho 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)



## IDAPA 02 – DEPARTMENT OF AGRICULTURE

### 02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

DOCKET NO. 02-0609-2402

### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 22-1907, 22-2004, 22-2006, 22-2403, 22-2412, Idaho Code.

**MEETING SCHEDULE:** Negotiated rulemaking meetings will be held as follows:

Wednesday, July 10, 2024 – 1 p.m. to 4 p.m.(MT)	Monday, July 29, 2024 – 1 p.m. to 4 p.m. (MT)
<b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID 83712 Conference Rooms 1 and 2</b>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact: [rulesinfo@isda.idaho.gov](mailto:rulesinfo@isda.idaho.gov).

For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The department has received two separate petitions proposing new additions to the Noxious Weed List, which the department is required to maintain through rulemaking. These proposals are for Palmar amaranth and Myrtle spurge. Palmar amaranth is a weed species found in agricultural crop lands. Myrtle spurge is a landscaping species. These species have either had an impact on agricultural production or present a threat to native species or human or animal health. The negotiated rulemaking process will allow for open discussion of possible listings and any possible support or opposition to such listings.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Lloyd B. Knight, Deputy Director, at (208)332-8615.

Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA website at the following web address: <https://agri.idaho.gov/laws-and-rules/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 29, 2024.

DATED this 24th day of May, 2024.

Lloyd B. Knight  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8615  
Email: [lloyd.knight@isda.idaho.gov](mailto:lloyd.knight@isda.idaho.gov)

## IDAPA 08 – STATE BOARD OF EDUCATION

### 08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-2401

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 33-105, 33-107, 33-2402, and 33-2403, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made at least one (1) day prior to the meeting to the agency address below.

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

Updating subsection 08.01.11.100 removes an outdated term, "regional," as it relates to postsecondary and proprietary school accreditation. The U.S. Department of Education no longer uses this term, and it is necessary to update the rule to remove the outdated reference to accreditation. Additional changes would eliminate unnecessary regulatory language from this subsection of the rule.

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

The proposed changes align this rule with the 2023 changes made by the U.S. Department of Education with regard to language around accreditation. The US DOE no longer uses the term "regional" when referencing accreditation. If the rule were to retain the word, five institutions currently operating in our state would no longer be exempted from paying a surety bond required by 33-2406, Idaho Code. Removing the outdated word ensures continuity of operations.

Furthermore, removing the additional requirements for Board recognition removes regulations that have not been utilized to date and would be in excess of the more robust national review process conducted by the US DOE which consists of evaluation by a formal accreditation group established by the US DOE and by the National Advising Committee on Institutional quality and Integrity.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the U.S. department of Education updated language regarding Department of Education accreditation. It is essential to align with federal regulations.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Nicholas Wagner at [rules@edu.idaho.gov](mailto:rules@edu.idaho.gov) or (208)-488-7586).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 17th day of May, 2024.

Nicholas Wagner  
Administrative Rules Coordinator  
Idaho State Board of Education  
650 W State St.  
PO Box 83720  
Boise, Idaho 83720-0037  
Phone: (208)488-7586  
fax: (208)334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0111-2401**

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

**100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.**

For purposes of registration of postsecondary educational institutions and proprietary schools, the Board recognizes the ~~regional~~ accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). ~~Further, the Board may recognize other accreditation organizations on a case by case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board's Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board's Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review.~~ (3-30-23)(7-1-24)T

# IDAPA 08 – STATE BOARD OF EDUCATION

## 08.02.01 – RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-2401

### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-101, 33-105, 33-107, 33-116, 33-117, 33-308, 33-320, 33-310B, 33-512, 33-513, 33-905, 33-1279, 33-1403, 33-1405, 33-2004 and Chapter 10, Title 33, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made at least one (1) day prior to the meeting to the agency address below.

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

To ensure conformity with recent changes to legislation made by H422 (2024) and H521 (2024), “Responsible District/School” and “Physically on Campus” two additional data points will need to be collected through the Idaho System of Educational Excellence (ISEE) data collection system. These data points must be identified in subsection 251.01. Updates in the rule to allow for the collection of the data points will give the board the ability to properly assist the IDE with calculating various funding streams.

Specifically, recent legislation requires that the board update data elements to Subsection 08.02.01.251.01. Additional data points will include identification of the “Responsible District” for each student and an indicator of whether the student is “Physically on Campus.” The former will allow the board to identify which district is primarily responsible for a student when they are dual-enrolled or reported in multiple locations, and the latter allows the board to collect validation data on whether a student is attending physically on campus to support the requirements of participation in certain facility funding streams.

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

As the legislative changes go into effect on July 1, 2024, data collection requirements must also be updated at that time. This will ensure that schools are prepared to submit the necessary data and that the ISEE system is prepared to receive the data necessary to ensure compliance with the recent legislative changes.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking will not be conducted because a temporary rule is required to update the data collection for the purpose of enabling compliant reporting as required by H422 (2024) and H521 (2024).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Nicholas Wagner at [rules@edu.idaho.gov](mailto:rules@edu.idaho.gov) or (208)-488-7586).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 17th day of May, 2024.

Nicholas Wagner  
Administrative Rules Coordinator  
Idaho State Board of Education  
650 W State St.  
PO Box 83720  
Boise, Idaho 83720-0037  
Phone: (208)488-7586, fax: (208)334-2632

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0201-2401**

**08.02.01 – RULES GOVERNING ADMINISTRATION**

**251. DATA COLLECTION.**

LEA’s will report the required information for state and federal reporting and decision-making. The reporting will be done in accordance with the requirements established in Chapter 10, Title 33, Idaho Code, or as needed for state and federal purposes. Each LEA is required to verify and assure the accuracy of the data submitted on a timeframe established by the state board of education or its designee. (3-15-22)

**01. State Data System.** In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system: (3-15-22)

- a. Grade Point Average (GPA); ~~and~~ ~~(3-15-22)~~(7-1-24)T
- b. Chronic Absenteeism; (3-15-22)
- c. Student address; (3-15-22)
- d. Responsible District/School; and (7-1-24)T
- e. Physically on Campus. (7-1-24)T

**IDAPA 08 – STATE BOARD OF EDUCATION**

**08.02.03 – RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-2402**

**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 33-105, 33-116, 33-118, and 33-1612, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

K-12 content standards are reviewed on a five year cycle. The content standards Arts and Humanities, Computer Science and Educational Technology, Driver Education, and Social Studies were revised by the Idaho State Department of Education. The content standards review process outlined in Board Policy has been completed. The Board has approved the revisions at the June 12, 2024, board meeting. Therefore, the content standards need to reflect the adoption dates in the specific content standards that have been revised and approved.

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

Any revisions to content standards need to be in place prior to the start of a new school year to ensure continuity of operations for teachers and students. The content standards Arts and Humanities, Computer Science and Educational Technology, Driver Education, and Social Studies were revised by the Idaho State Department of Education. The content standards review process outlined in Board Policy has been completed. The Board has approved the revisions at the June 12, 2024, board meeting. Therefore, the rule needs to be updated to reflect the revisions.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Nicholas Wagner at [rules@edu.idaho.gov](mailto:rules@edu.idaho.gov) or (208)-488-7586).

DATED this 17th day of May, 2024.

Nicholas Wagner  
Administrative Rules Coordinator  
Idaho State Board of Education  
650 W State St.  
PO Box 83720  
Boise, Idaho 83720-0037  
Phone: (208)488-7586, fax: (208)334-2632

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0203-2402  
(Only Those Sections With Amendments Are Shown.)**

**08.02.03 – RULES GOVERNING THOROUGHNESS**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-15-22)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

- a. Arts and Humanities Categories: (3-15-22)
- i. Dance, as revised and adopted on ~~August 11, 2016~~ June 12, 2024; (~~3-15-22~~)(7-1-24)T
- ii. Interdisciplinary Humanities, as revised and adopted on ~~August 11, 2016~~ June 12, 2024; (~~3-15-22~~)(7-1-24)T
- iii. Media Arts, as adopted on ~~August 11, 2016~~ June 12, 2024. (~~3-15-22~~)(7-1-24)T
- iv. Music, as revised and adopted on ~~August 11, 2016~~ June 12, 2024; (~~3-15-22~~)(7-1-24)T
- v. Theater, as revised and adopted on ~~August 11, 2016~~ June 12, 2024; (~~3-15-22~~)(7-1-24)T
- vi. Visual Arts, as revised and adopted on ~~August 11, 2016~~ June 12, 2024; (~~3-15-22~~)(7-1-24)T
- vii. World languages, as revised and adopted on ~~August 11, 2016~~ June 12, 2024. (~~3-15-22~~)(7-1-24)T
- b. Computer Science, adopted on ~~November 28, 2016~~ June 12, 2024. (~~3-15-22~~)(7-1-24)T
- c. Driver Education, as revised and adopted on ~~August 10, 2017~~ June 12, 2024. (~~3-15-22~~)(7-1-24)T
- d. Health, as revised and adopted on August 24, 2022. (4-6-23)
- e. Information and Communication Technology, as revised and adopted on August 10, 2017. (3-15-22)
- f. Physical Education, as revised and adopted on August 24, 2022. (4-6-23)
- g. Social Studies, as revised and adopted on ~~November 28, 2016~~ June 12, 2024. (~~3-15-22~~)(7-1-24)T
- h. College and Career Readiness Competencies adopted on June 15, 2017. (3-15-22)

**02. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

**03. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

**04. The Idaho Special Education Manual.** The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)



**IDAPA 09 – IDAHO DEPARTMENT OF LABOR**

**09.01.01 – RULES OF ADMINISTRATIVE PROCEDURE OF THE DEPARTMENT OF LABOR**

**DOCKET NO. 09-0101-2401 (ZBR CHAPTER REWRITE)**

**NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), Idaho Code.

**MEETING SCHEDULE:** Negotiated rulemaking meetings will be held as follows:

<b>Idaho Department of Labor 317 W. 3rd St. Boise ID 83702</b>	
<b>Monday, July 15, 2024 2:00 p.m. - 3:00 p.m. (MT) <a href="#">Zoom Link</a></b>	<b>Wednesday, July 17, 2024 10:00 a.m. - 11:00 a.m. (MT) <a href="#">Zoom Link</a></b>
<b>(Virtual meeting links will also be posted at: <a href="http://townhall.idaho.gov">townhall.idaho.gov</a>)</b>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and/or web conferencing. Individuals interested in participating can visit [townhall.idaho.gov](http://townhall.idaho.gov) for specific meeting information, including web links for participation. For those who cannot participate in this way, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the IDOL’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Darlene Carnopis at [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov) or (208) 696-2380.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of July, 2024.

Darlene Carnopis  
Policy Coordinator  
Idaho Department of Labor  
317 W. 3rd St.  
Boise, ID 83702  
Phone: (208) 696-2380  
Email: [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov)

**IDAPA 09 – IDAHO DEPARTMENT OF LABOR**

**09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES**

**DOCKET NO. 09-0130-2401 (ZBR CHAPTER REWRITE)**

**NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), Idaho Code.

**MEETING SCHEDULE:** Negotiated rulemaking meetings will be held as follows:

<b>Idaho Department of Labor 317 W. 3rd St. Boise ID 83702</b>	
<b>Monday, July 15, 2024 2:00 p.m. - 3:00 p.m. (MT) <a href="#">Zoom Link</a></b>	<b>Wednesday, July 17, 2024 10:00 a.m. - 11:00 a.m. (MT) <a href="#">Zoom Link</a></b>
<b>(Virtual meeting links will also be posted at: <a href="http://townhall.idaho.gov">townhall.idaho.gov</a>)</b>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and/or web conferencing. Individuals interested in participating can visit [townhall.idaho.gov](http://townhall.idaho.gov) for specific meeting information, including web links for participation. For those who cannot participate in this way, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the IDOL’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Darlene Carnopis at [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov) or (208) 696-2380.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of July, 2024.

Darlene Carnopis  
Policy Coordinator  
Idaho Department of Labor  
317 W. 3rd St.  
Boise, ID 83702  
Phone: (208) 696-2380  
Email: [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov)

**IDAPA 09 – IDAHO DEPARTMENT OF LABOR**  
**09.01.35 – UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES**  
**DOCKET NO. 09-0135-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 72-1300 et seq., Idaho Code, Sections 45-600 et seq., 74-106(7), Idaho Code.

**MEETING SCHEDULE:** Negotiated rulemaking meetings will be held as follows:

<b>Idaho Department of Labor</b> <b>317 W. 3rd St.</b> <b>Boise ID 83702</b>	
<b>Monday, July 15, 2024</b> <b>2:00 p.m. - 3:00 p.m. (MT)</b> <a href="#">Zoom Link</a>	<b>Wednesday, July 17, 2024</b> <b>10:00 a.m. - 11:00 a.m. (MT)</b> <a href="#">Zoom Link</a>
<b>(Virtual meeting links will also be posted at: <a href="http://townhall.idaho.gov">townhall.idaho.gov</a>)</b>	

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

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

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and/or web conferencing. Individuals interested in participating can visit [townhall.idaho.gov](http://townhall.idaho.gov) for specific meeting information, including web links for participation. For those who cannot participate in this way, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the IDOL’s plan to review each rule every 5 years. There are no specific rulemaking changes planned by the IDOL at this time except for evaluation and amendment consistent with the Governor’s [Zero-Based Regulation Executive Order](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The IDOL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules’ statutory authority and the Governor’s Executive Order. The IDOL will review the documents that are currently incorporated by reference in this rule and update that list as applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Darlene Carnopis at [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov) or (208) 696-2380.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of July, 2024.

Darlene Carnopis  
Policy Coordinator  
Idaho Department of Labor  
317 W. 3rd St.  
Boise, ID 83702  
Phone: (208) 696-2380  
Email: [darlene.carnopis@labor.idaho.gov](mailto:darlene.carnopis@labor.idaho.gov)

**IDAPA 11 – IDAHO STATE POLICE  
STATE BRAND BOARD**

**11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD**

**DOCKET NO. 11-0201-2401**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 25-1102, 25-1110, and 25-1160 Idaho Code.

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

<b>Wednesday, July 24, 2024 10:00 a.m. MT</b>
<b>In Person: Idaho State Police Headquarters 700 S Stratford Dr. Meridian, ID 83642 (Meeting to be held in Building 9 Conference Room)</b>
<b>Join by meeting <a href="#">link</a></b>
<b>Join by meeting number Meeting ID (access code): 290 174 641 053 Passcode: d6cHbL</b>
<b>Join by phone +1 872-215-6990,,539218522# United States, Chicago Phone Conference ID: 539 218 522#</b>

Additional meetings will be held if deemed necessary or at request as determined by the Idaho State Brand Board. If additional meetings are scheduled, they will be announced at a later date on Townhall Idaho at <https://townhall.idaho.gov/> and on the Idaho Brand Board website at <https://isp.idaho.gov/brands/>.

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

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

Interested members of the public who wish to participate must submit written comments, questions, recommendations, or ideas addressed to the Idaho State Brand Board, State Brand Inspector, Cody D. Burlile, by mail at P.O. Box 1177 Meridian, ID 83680-1177, or in person at 700 S. Stratford Dr., Meridian, Idaho 83642, or by email to [Cody.Burlile@isp.idaho.gov](mailto:Cody.Burlile@isp.idaho.gov). Individuals are also encouraged to attend scheduled meetings in person on the above date(s) during which the Idaho State Brand Board will allow oral comments and discussion. All oral comments or presentations must also be submitted in writing for the record on or before August 1, 2024.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Idaho State Brand Board (Board) is funded solely by the dedicated revenue generated from the livestock industries for carrying out brand inspections, brand recordings, brand renewals, and livestock dealer licensing. This proposed rulemaking is an integral part of a long-range plan to address continued budget shortfalls within the Idaho Brand Board and which have been discussed at length within the “Industry Stakeholder Brand Fee Working Group” formulated in 2022. Currently, the Board’s fees are capped in statute with language that allows the Board to adjust said fees under the cap from time to time whenever the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained below maximum fees. In addition, the Board’s fees are duplicated in rule (IDAPA 11.02.01) causing regulatory repetition, undue rule maintenance and publication costs, as well as regulatory friction when necessary adjustments are warranted. This rulemaking eliminates duplicated language, reduces regulatory burden, and serves true to legislative intent. This rulemaking is proposed in anticipation of the Board carrying out executive legislation to introduce statutory language to further clarify process on how the Board will determine and notify stakeholders of fee adjustments under the maximum cap.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact State Brand Inspector, Cody Burlile at (208) 884-7070 or by email at [Cody.Burlile@isp.idaho.gov](mailto:Cody.Burlile@isp.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Brand Board web site at the following web address: <https://isp.idaho.gov/brands/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 1, 2024.

DATED this 19th day of June, 2024.

Cody D. Burlile  
State Brand Inspector  
Idaho State Brand Board – Idaho State Police  
700 S. Stratford Dr.  
P.O. Box 1177  
Meridian, ID 83680-1177  
(208) 884-7070 phone, (208) 884-7097 fax  
Email: [Cody.Burlile@isp.idaho.gov](mailto:Cody.Burlile@isp.idaho.gov)  
Website: <https://isp.idaho.gov/brands>



**IDAPA 11 – IDAHO STATE POLICE**  
**11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL**  
**DOCKET NO. 11-0501-2402**  
**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 23-616, 23-932, 23-946(b), 23-1330, and 23-1408.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The temporary rule provides clarification to recently enacted Senate Bills 1364, 1381 and 1421, which will serve Idaho's liquor licensee's and industry in navigating Title 23 and providing the ability to make informative business decisions when selling or transferring a liquor license in the future.

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

Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate and necessary for the Alcohol Beverage Control Section to continue operation and to continue serving the Idaho businesses they support and serve.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no changes to the fees associated with this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Captain Rocky Gripton, Idaho State Police, (208) 884-7062, [rocky.gripton@isp.idaho.gov](mailto:rocky.gripton@isp.idaho.gov).

DATED this 10th day of June, 2024.

Lt Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Drive  
Meridian Idaho 83642  
(208) 884-7004  
[Bill.gardiner@isp.idaho.gov](mailto:Bill.gardiner@isp.idaho.gov)

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0501-2402**  
**(Only Those Sections With Amendments Are Shown.)**

**11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL**

**010. DEFINITIONS.**

**01. Actual Use.** Actual use constitutes when a liquor license is issued to a licensee and legitimate sales of liquor by the drink are being made on a weekly basis. (7-1-24)T

**02. Business.** Business means any operation to carry out the normal day to day activities to exercise the privilege of holding a liquor license and operating a premises, as defined in Section 23-902(15), Idaho Code, for the purposes of Section 23-903(16)(d) (15-18), Idaho Code. (7-1-24)T

~~**03. Licensed Premises.** Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee’s application for a license constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder.~~ (3-23-22)(7-1-24)T

~~**02. New Licenses.** For purposes of Section 23-908(4), Idaho Code, a “new license” is one that has become available as an additional license within a city’s limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week.~~ (3-23-22)

**034. Multipurpose Arena.** (3-23-22)

**a.** For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena is a: (3-23-22)

**i.** Publicly or privately owned or operated arena, coliseum, stadium, or other facility where sporting events, concerts, live entertainment, community events, and other functions are presented for a ticketed price of admission or one whose premises are leased for private events such as receptions; (3-23-22)

**ii.** Facility that is licensed to sell liquor by the drink at retail for consumption upon the premises; and (3-23-22)

**iii.** Facility that has been endorsed by the director. (3-23-22)

**b.** A Multipurpose Arena facility must apply annually for an endorsement on its alcohol beverage license. (3-23-22)

**c.** To receive a Multipurpose Arena endorsement under this Section will require the facility to have food available including, but not limited to, hamburgers, sandwiches, salads, or other snack food. The director may also restrict the type of events at a Multipurpose Arena facility at which beer, wine, and liquor by the drink may be served. The director will also consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a Multipurpose Arena facility before the director will endorse the license. (3-23-22)

**d.** A licensee that applies for a Multipurpose Arena endorsement must submit with the application an operating/security plan to the director and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or the director determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. The plan must be submitted in a format designated by the director and contain all of the following elements: (3-23-22)

- i. How the Multipurpose Arena facility will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated; (3-23-22)
  - ii. The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served; (3-23-22)
  - iii. Training provided to staff who serve, regulate, or supervise the service of alcohol; (3-23-22)
  - iv. The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one (1) transaction; (3-23-22)
  - v. A list of event type/categories to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event; and (3-23-22)
  - vi. Diagrams and designation of alcohol service areas for each type of event category with identified restrictions of minors. (3-23-22)
- e.** Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the director and local law enforcement office showing the date and time of each event during which alcohol service is planned. The licensee must notify the director and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. (3-23-22)
- f.** To prevent persons who are under twenty-one (21) years of age or who appear intoxicated from gaining access to alcohol, the director may require that an operating plan include additional mandatory requirements if it is determined that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one (21) years of age or who are apparently intoxicated from obtaining alcohol. (3-23-22)
- g.** If premises, licensed as a Multipurpose Arena, subsequently ceases to meet the qualifications of a Multipurpose Arena, the restrictions contained in Section 23-943, Idaho Code, apply and the posting of signs as provided for in Section 23-945, Idaho Code, is required. The licensee shall advise the director, by mail, that his premises no longer constitute a Multipurpose Arena, so that the license may be modified accordingly. (3-23-22)
- 05.** Owner. An owner as stated in Section 23-903 subsections 16-18, Idaho Code, may hold the privilege to a license as between that person and the state of Idaho, and is subject to the qualifications and restrictions contained in Idaho Code Chapters 9, 10 and 13 of Title 23. (7-1-24)T
- 046.** **Partition.** A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-23-22)
- a.** Permanently fixed from the premises ceiling to the premises floor. (3-23-22)
  - b.** Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-23-22)
  - c.** Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-23-22)
  - d.** All partitions must be approved by the Director. (3-23-22)
- 057.** **Place.** For the purposes of Section 23-943, Idaho Code, "Place" as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-23-22)
- 068.** **Restaurant.** The term Restaurant, ~~as defined by~~ found in Sections 23-903c and 23-942(c), Idaho

Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of ~~Section 010~~ this section, also includes that the licensee must show to the director the following: ~~(3-23-22)~~(7-1-24)T

- a. An established menu identifying the individually priced meals for consumption; (3-23-22)
- b. Food service and preparation occurs on the premises by establishment employees; (3-23-22)
- c. Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-23-22)
- d. The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food-eating establishment, or that at least forty percent (40%) , or at least sixty percent (60%) for resort city restaurant liquor licenses as set forth in Section 23-903c., Idaho Code. of the establishment's consumable purchases are derived from purchases of food and non-alcoholic beverages. ~~(3-23-22)~~(7-1-24)T

**079. Stock Transfer.** For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. ~~However, the sale or exchange of shares in a family corporation among family members, is not a transfer.~~ ~~(3-23-22)~~(7-1-24)T

**10. Transfer.** Any change to a person as defined in Section 23-902(13), Idaho Code, who owns, operates, or leases an alcohol beverage license as a privilege granted by ABC except the transfer conditions set forth in Section 23-903(16)(c), Idaho Code. ~~(7-1-24)T~~

**011. GENERAL PROVISIONS.**

**01. Delegation of Authority to License Alcoholic Beverages.** The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau. The Alcohol Beverage Control Bureau provides forms for all applications and inquiries. Nothing contained herein interferes with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). (3-23-22)

**02. Authority to Stagger the Renewal of Licenses to Sell Alcohol.** For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. Renewal months vary by county and are available on the Alcohol Beverage Control website. (3-23-22)

**03. Premises Loss, License Display, and Actual Use Requirement.** ~~(7-1-24)T~~

**a.** In the event of loss or move of the physical licensed premises, or reversion under Section 23-903(17), Idaho Code, a the licensee has one hundred eighty (180) days to secure and occupy a new premises in which to display the license. An additional sixty (60) days may be granted by ABC, upon petition by the license holder. ~~(7-1-24)T~~

**b.** All licenses must be prominently displayed in suitable premises and remain in actual use. ~~(7-1-24)T~~

**04. Notification of Renewals and Administrative Actions.** For the purposes of Section 23-903(18)(e), Idaho Code, the owner and lessee must include in the lease agreement a primary email contact to which the renewal notice, filings, and payment of administrative actions will be sent. ~~(7-1-24)T~~

**012. TRANSFER OF ALCOHOLIC BEVERAGE LICENSES.**

**01. Transfer of License Subject to Sanctions.** The Director of the Idaho State Police may deny the transfer of an alcoholic beverage license which is subject to possible disqualification, revocation or suspension under the provisions of Title 23, Chapters 9, 10, and 13, Idaho Code, or these rules, when an action has been filed to such effect before the Idaho State Police pursuant to Sections 23-933, 23-1037 or 23-1331, Idaho Code. (3-23-22)

~~**02. Death or Incapacity of Licensee.** In the event of the incapacity, death, receivership, bankruptcy, or assignment for the benefit of creditors of a licensee, his guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may, upon written authorization from the Alcohol Beverage Control Bureau, continue the business of the licensee on the licensed premises for the duration of the license or until the business is terminated. Any person operating the licensed premises under this regulation must submit a signed agreement that he will assume all of the responsibilities of the licensee for operation of the premises in accordance with law. A person operating licensed premises under the regulation must demonstrate to the satisfaction of the Alcohol Beverage Control Bureau that he is qualified to hold an alcoholic beverage license. A guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may renew or transfer a license so held, in the same manner as other licensees, subject to the approval of the Alcohol Beverage Control Bureau. (Sections 23-908(1), 23-1005A, and 23-1317, Idaho Code). (3-23-22)~~

**02. Events Not Implicating the One Transfer Law Restriction.** When any of the events occur pursuant to Sections 23-908(5)(a),(b), (d), and (e), 23-903(16-18), Idaho Code, a person must apply with ABC pursuant to Section 23-905, Idaho Code, within thirty (30) days. (7-1-24)T

**a. The owner must give written notice to the agency within fifteen (15) days of the end of the license lease per Section 23-903(17), Idaho Code.** (7-1-24)T

**b. Any licensee that elects to apply the provisions of Section 23-903(18), Idaho Code, must notify ABC of such declaration via the lease agreement submitted with the application for transfer to the lessee.** (7-1-24)T

**03. Transfer Fees if Applicable.** Options to purchase an incorporated city liquor license shall submit the required transfer fee when the application to transfer occurs. A refund may be requested if the option to purchase is not exercised at the end of the term. (7-1-24)T

**034. Authorization to Transfer and Assignment of Privilege to Renew.** Any person applying to renew a liquor license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew, a written Authorization to Transfer and Assignment of Privilege to Renew signed by the current licensee. (3-23-22)

**045. Temporary Permits.** When application for transfer of an alcoholic beverage license has been made, the Alcohol Beverage Control Bureau, in its discretion, may authorize issuance of a temporary permit during the review of the application, during which time the applicant for transfer may conduct business as a temporary permit holder. The permit holder, in accepting the temporary permit, is responsible for complying with all statutes and rules pertinent to the sale of alcoholic beverages. Sanctions against such permit holder, whether civil, administrative, or criminal lies with the permittee, and acceptance of the permit constitutes a waiver of any defenses by permit holder based upon the fact that the permit holder is not, technically, a licensee. The Alcohol Beverage Control Bureau may withdraw a temporary permit it has issued pursuant to this rule at any time without hearing or notice. (3-23-22)

**056. Product Replacement and Credit.** Any beer or wine products removed from the licensed retailer's premises by a wholesaler/distributor for quality control or public health are not considered to be a violation of Section 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if: (3-23-22)

**a.** The packages or kegs are replaced with identical product and quantity; or (3-23-22)

**b.** In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion; or (3-23-22)

**c.** In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit

shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or (3-23-22)

**d.** In the case of a licensed establishment which is in operation no less than two (2) months and no more than nine (9) months of each year, prior to its period of closure, it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by the same retailer. (3-23-22)

**e.** Credit is given to a retailer for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor. (3-23-22)

**067. Expiration of Licenses.** When a county or city has, pursuant to Sections 23-927 and/or 23-1012, Idaho Code, passed an ordinance extending the hours of sale of liquor and/or beer to two o'clock a.m. (2:00 a.m.), all liquor and/or beer licenses in that county expire at two a.m. (2 a.m.), on the first of the renewal month of the year following their issuance. (Section 23-908(1), Idaho Code). (3-23-22)

**078. Maintenance of Keg Receipts.** Licensees shall retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months. (3-23-22)

**09. Continuous Operation Facilities Licenses.** An existing license issued under Section 23-903(8), Idaho Code, before July 1, 2028, may be renewed annually and may be transferable through sale or lease. (7-1-24)T

**013. PRIORITY LISTS.**

**01. Priority Lists for Incorporated City and Resort City Restaurant Liquor Licenses.** The Alcohol Beverage Control Bureau maintains a priority list of applicants for those cities in which no incorporated city liquor license is available. A separate list is maintained for each city. A person, partnership, or corporation desiring to be placed on a priority list shall file a completed application for ~~an incorporated city~~ liquor license, accompanied by payment of one-half (1/2) of the annual license fee. Such application need not show any particular building or premises upon which the liquor is to be sold, nor that the applicant is the holder of any license to sell beer. Priority on the list is determined by the earliest application, and each succeeding application is placed on the list in the order received. (3-23-22)(7-1-24)T

**02. Written Notification.** When an incorporated city or a resort city restaurant liquor license becomes available Alcohol Beverage Control offers it in writing to the applicant whose name appears first on the priority list. ~~If the applicant does not notify the Alcohol Beverage Control Bureau in writing within ten (10) days of receipt of the notice of his intention to accept the license~~ The applicant shall have ten (10) days from the date of the receipt of the Notice of License Availability to declare their intention to accept the license. If the applicant fails to comply with this requirement, the license is offered to the next applicant in priority. (7-1-24)T

**a.** An applicant accepting the incorporated city license shall have a period of one hundred eighty (180) days from the date of receipt of Notice of License Availability in which to complete all requirements necessary for the issuance of the license. Provided, however, that upon a showing of good cause the Director of the Idaho State Police may extend the time period in which to complete the necessary requirements for a period not to exceed ninety (90) days. (3-23-22)(7-1-24)T

**b.** An applicant accepting the resort city restaurant license shall have a period of ninety (90) days from the date of receipt of Notice of License Availability in which to complete all requirements necessary for the issuance of the license. No extensions will be allowed for this license type. (7-1-24)T

**03. Refusal to Accept Offer of License or Failure to Complete Application for License.** (7-1-24)T

**a.** Where a resort city restaurant liquor license is available, an applicant must choose one (1) of the following: (7-1-24)T

**i.** To remain on the priority waiting list for an incorporated city license; (7-1-24)T

- ii. Proceed with the application for the resort city restaurant liquor license; or (7-1-24)T
- iii. Request a refund of the priority waiting list fee. (7-1-24)T

**b.** An applicant ~~who refusing refuses~~ a license offered under ~~this these~~ rules or an applicant who ~~fails is unable~~ to meet the statutory requirements for licensing, or to complete ~~his the~~ application may have ~~his their~~ name placed at the end of the priority list upon ~~his~~ request. (7-1-24)T

**c.** ~~Should the~~An applicant holding first place on the priority list who refuses or fails to accept ~~the either~~ license type or to complete the application within the time specified, ~~the that~~ applicant will be ~~dropped removed~~ from the priority list, the fee shall be ~~deposit~~ refunded, and the license offered to the applicant appearing next on the list. (3-23-22)(7-1-24)T

**04. Limitations on Priority Lists.** An applicant shall hold only one position at a time on each incorporated city priority list. An applicant must be able to demonstrate to the Director the ability to place an awarded license into actual use as required by Section 23-908(4), Idaho Code and these rules. An applicant for a place on an incorporated city liquor license priority list may not execute an inter vivos transfer or assignment of his place on the priority lists. For the purposes of this rule, “inter vivos transfer or assignment” means the substitution of any individual; partnership; corporation, including a wholly owned corporation; organization; association; or any other entity for the original applicant on the waiting list. An attempt to assign inter vivos a place on an incorporated city liquor license priority list shall result in the removal of the name of the applicant from the lists. An applicant, however, may assign his or her place on an alcoholic liquor license priority list by devise or bequest in a valid will. A place on an incorporated city liquor license priority list becomes part of an applicant’s estate upon his or her death. (3-23-22)

**05. Priority Lists Where Licenses Are Available.** The Alcohol Beverage Control Bureau will not maintain a list for a city in which a liquor license is available, nor for a city that does not permit retail sale of liquor. (3-23-22)

## IDAPA 11 – IDAHO STATE POLICE

### 11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL

#### DOCKET NO. 11-0501-2403 (ZBR CHAPTER REWRITE)

#### NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 23-616, 23-932, 23-946(B), 23-1330, 23-1408 Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Wednesday, July 24, 2024 10:00 a.m. MT</b>
<b>In Person:</b> <b>Idaho State Police Headquarters</b> <b>700 S Stratford Dr.</b> <b>Meridian, ID 83642</b> <b>(Meeting to be held in the ABC Conference Room)</b>
<b>Join by meeting <a href="#">link</a></b>
<b>Join by meeting number</b> <b>Meeting ID (access code): 253 227 528 134</b> <b>Passcode: 9hKc5K</b>
<b>Join by phone</b> <b>+1 872-215-6990,,467084427# United States, Chicago</b> <b>Phone Conference ID: 467 084 427#</b>

Additional meetings will be held if deemed necessary or at request as determined by the Idaho State Police Alcohol Beverage Control Section. If additional meetings are scheduled, they will be announced at a later date on Townhall Idaho at: <https://townhall.idaho.gov/> and on the Idaho State Police Alcohol Beverage Control Section website.

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

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

Attend the negotiated rulemaking meeting and participate in the negotiation process or submit written comments or recommendations to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:



Under [Executive Order 2020-01:Zero-Based Regulation](#), the department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce the regulatory burden and enhance operational efficiency.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Captain Rocky Gripton, Idaho State Police, (208) 884-7062, [rocky.gripton@isp.idaho.gov](mailto:rocky.gripton@isp.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Police Alcohol Beverage Control website at the following web address: <https://isp.idaho.gov/abc/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24,2024.

DATED this 20th day of June, 2024.

Lt Colonel Bill Gardiner, Chief of Staff  
Idaho State Police  
700 S Stratford Drive  
Meridian ID 83642 (208) 884-7004  
[Bill.gardiner@isp.idaho.gov](mailto:Bill.gardiner@isp.idaho.gov)

**IDAPA 11 – IDAHO STATE POLICE  
PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**DOCKET NO. 11-1101-2401**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 7, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 19-5107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

When the rule was changed in 2021, it included adding the additional language to Subsection 11.11.01.055.03 addressing illegally purchasing or illegally possessing marijuana as disqualifying conduct. As published, there were no commas added to provide the context and meaning as intended by the POST Council in making the change. The intent was to disqualify an applicant who has used, illegally purchased, or illegally possessed marijuana within one year of application. Without the commas the meaning is changed to only preclude using illegally purchased or illegally possessed marijuana. This is counter to the intent of the POST Council in adding the language to address illegally purchasing or illegally possessing marijuana, in addition to its use within a year of application. The addition of the two commas corrects this error.

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

This temporary rule change is needed to protect the public health, safety, or welfare because as currently written, it allows applicants who have used marijuana within one year of application to qualify for certification if such use was other than marijuana that was illegally purchased or illegally possessed. This is contrary to disqualifying an applicant for any marijuana use within one year of application, as has been in the rule for many years and is still intended by the POST Council.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Not applicable.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a minor change to correct a simple oversight and is not considered substantive.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brad Johnson, 208-884-7251.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S. Stratford Drive  
Meridian, ID 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@isp.idaho.gov)

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 11-1101-2401**

**11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**055. INELIGIBILITY BASED UPON PAST CONDUCT.**

An applicant is ineligible to attend a basic training academy and for certification under the following circumstances. (3-31-22)

- 01. Criminal Conviction.** An applicant is ineligible if he was convicted of: (3-31-22)
  - a.** A felony, if the applicant was eighteen (18) years old or older at the time of conviction; (3-31-22)
  - b.** A misdemeanor Driving Under the Influence offense(s) within two (2) years immediately preceding application, or two or more (2) misdemeanor Driving Under the Influence offenses within five (5) years immediately preceding application; (3-31-22)
  - c.** A misdemeanor crime involving domestic violence, if the relevant law enforcement discipline requires the applicant to possess a firearm in the course of their duty, or if the conviction occurred within 5 years immediately preceding application; (3-31-22)
  - d.** A misdemeanor crime of deceit, as defined in these rules, or a misdemeanor sex offense, if the conviction occurred within five (5) years immediately preceding application; (3-31-22)
  - e.** A misdemeanor drug-related offense, if the conviction occurred within one (1) year immediately preceding application. (3-31-22)
- 02. Driver's License.** An applicant is ineligible if he does not possess a valid driving license from the applicant's state of residence and is unable to qualify for an Idaho driver's license, except for the following disciplines: (3-31-22)
  - a.** Correction Officers; (3-31-22)
  - b.** Emergency Communications Officers. (3-31-22)
- 03. Marijuana.** An applicant is ineligible if he used, illegally purchased, or illegally possessed marijuana, cannabis, hashish, hash oil, or THC in synthetic and natural forms, whether charged or not, if such use occurred: ~~(3-31-22)~~(6-7-24)T

- a. Within one (1) year immediately preceding application; (3-31-22)
- b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred. (3-31-22)

**04. Violations of Idaho Controlled Substances Act.** An applicant is ineligible if he, while eighteen (18) years old or older, violated any provision of the Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, whether charged or not, that constitutes a felony, or of a comparable statute of another state or country, if the violation occurred: (3-31-22)

- a. Within three (3) years immediately preceding application; (3-31-22)
- b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred. (3-31-22)

**05. Use of Prescription or Other Legally Obtainable Controlled Substance.** An applicant is ineligible if he unlawfully used any prescription drug or a legally obtainable controlled substance within the past three (3) years, unless: (3-31-22)

- a. The applicant was under the age of eighteen (18) at the time of using the controlled substance; or (3-31-22)
- b. An immediate, pressing, or emergency medical circumstance existed to justify the use of a prescription controlled substance not specifically prescribed to the person. (3-31-22)

**06. Military Discharge.** An applicant is ineligible if he received a “dismissal,” “bad conduct discharge” (BCD), “dishonorable discharge” (DD), or administrative discharge of other than honorable (OTH) from military service. (3-31-22)

**07. Decertification or Denial of Certification.** An applicant is ineligible if he has been denied certification; his certification is suspended in another state or jurisdiction, denied, revoked or applicant is not able to obtain certification in another state or jurisdiction; or his basic certificate has been revoked by the Council in this state or the responsible licensing agency in any other issuing jurisdiction, unless the denial or revocation has been rescinded by the Council or by the responsible licensing agency of the issuing jurisdiction. (3-31-22)

**IDAPA 13 – IDAHO FISH AND GAME COMMISSION**  
**ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO**  
**DOCKET NO. 13-0000-2400P4**  
**NOTICE OF ADOPTED / AMENDED PROCLAMATIONS FOR CALENDAR YEAR 2024**

**AUTHORITY:** As authorized by Section 36-104, Idaho Code, and in compliance with Sections 36-105(3), Idaho Code, the Commission adopts proclamations establishing seasons and limits for hunting, fishing, and trapping in Idaho.

**AVAILABILITY OF OFFICIAL PROCLAMATIONS:** Hunters, anglers, and trappers are advised to consult the text of the Commission’s official proclamation before hunting, fishing, or trapping. All proclamations are available on-line at <https://idfg.idaho.gov/rules>, with print versions available at Idaho Department of Fish and Game offices and license vendors.

**DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE:** The Commission meeting schedule and meeting agendas are available on-line at [Commission Meeting Schedule](#), with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2024 was initially published in the February 7, 2024, Idaho Administrative Bulletin, [Volume 24-2, pages 10-11](#).

At a May 16, 2024 regular meeting the Commission took the following proclamation action:

1. Amended its 2024 spring Chinook Salmon seasons and limits in the Clearwater River.

At a June 12, 2024 meeting the Commission took the following proclamation actions:

1. Adopted a proclamation for the 2024 Summer Chinook Salmon Seasons, establishing seasons and limits for taking of Chinook Salmon.
2. Adopted a proclamation continuing to interpret a March 19, 2024 federal court order as closing wolf trapping seasons in the entirety of 19 Idaho counties encompassing the Panhandle, Clearwater, Salmon and Upper Snake Regions for the 2024-2025 trapping season (July 1, 2024 through June 30, 2025), except during December 1, 2024 to February 28, 2025. The Commission clarified that the interpretation is not a Commission designation of grizzly bear habitat, because these 19 counties contain significant area that is not occupied by, or suitable for, grizzly bears. The Commission has formally asked the court to reconsider its order.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning proclamations, contact Owen Moroney at (208) 334-3715.

# IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

## 13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-2401

### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 36-103, 104, 201, 401, 406, 406A, 407, 410, 701, 706, 804, 901, 902, and 36-1001, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<p><b>*PUBLIC MEETING*</b> <b>Tuesday, July 9, 2024, at 1:00 p.m. to 2:00 p.m. MDT</b> <b>(11:00 a.m. to 12:00 p.m. PDT)</b></p>
<p><b>In Person: IDFG Headquarters</b> <b>600 South Walnut Street</b> <b>Boise, ID 83712</b></p>
<p><b>Virtual Meeting Link: <a href="https://us06web.zoom.us/j/83077793532">https://us06web.zoom.us/j/83077793532</a></b></p>

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

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

Those interested in participating in the negotiated rulemaking process must either attend the scheduled meeting(s) or identify themselves to the Department via the below phone number, email, or mailing address in advance of the scheduled meeting. Upon conclusion of negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available on the agency website and to interested persons who contact the agency.

A lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings after the initial public meeting. In any event, the agency has sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The rulemaking concerns the review of IDAPA 13.01.11.200.01.d and 13.01.11.220.04, Rules Governing Fish, Fishing Methods and Gear section to consider expanding opportunities for spearfishing as brought to the Department and the Fish and Game Commission by interested parties. A proposal to consider expanding take to certain gamefish species (specifically, walleye, pike, and lake trout) was sent to the Department in May 2024. Additionally, at the May 2024 Commission meeting, several anglers requested modification to the gear restrictions pertaining to take of certain gamefish species using underwater spearfishing in waters where the Department is trying to actively reduce their abundance to achieve management objectives. This rulemaking will consider all comments brought to the Department around this proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Lance Hebdon, Fisheries Bureau Chief (208) 334-3791. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Fish and Game web site at the following web address: <https://idfg.idaho.gov/about/rulemaking>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 13th day of June, 2024.

Amber Worthington, Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25  
Boise, ID 83707  
Phone: (208) 334-3771  
Fax (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.18 – CHILDREN’S AGENCIES AND RESIDENTIAL LICENSING**  
**DOCKET NO. 16-0418-2401**  
**NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1207, 39-1208, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

Because of the updates to 16.06.02, Foster Care Licensing, this rule makes corresponding changes to the children’s agencies requirements for foster homes.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.



DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH  
Director  
Idaho Department of Health & Welfare  
450 W. State Street, 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
[Alex.Adams@dhw.idaho.gov](mailto:Alex.Adams@dhw.idaho.gov)

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 16-0418-2401  
(Only Those Sections With Amendments Are Shown.)**

**300. POLICIES.**

A children's agency that licenses foster homes must have policies that comply with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, and may require that additional foster care rules be met if ~~(4-6-23)~~(7-1-24)T

**~~301. FOSTER FAMILY HOME STUDY.~~**

~~The agency must conduct and maintain an appropriate home study based on IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, to determine if the family meets required licensing standards to be issued a foster care license. (4-6-23)~~

**~~302. TRAINING.~~**

~~The agency must have and follow a training policy that includes completing the orientation and ongoing training requirements of IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499. All foster care training must be documented in the foster parent's case file record. (4-6-23)~~

**~~303. EMERGENCY EVACUATION PLAN.~~**

~~An agency must have a policy requiring foster homes to have an agency-approved written evacuation plan. (4-6-23)~~

**~~301. – 303. (RESERVED)~~**

**(BREAK IN CONTINUITY OF SECTIONS)**

**306. COMPLAINT INVESTIGATION PROCESS.**

**01. Initiation of Complaint Investigation.** When a complaint is received that relates to possible foster parent noncompliance with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, an agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, and no later than seven (7) calendar days after receipt of the allegation. ~~(4-6-23)~~(7-1-24)T

**02. Agency Report.** Upon completion of the investigation, an agency must prepare a written report that includes: ~~(4-6-23)~~

- a. The specific allegations; (4-6-23)
- b. Findings of fact, based on the investigation; (4-6-23)
- c. Conclusions regarding noncompliance with IDAPA 16.06.02, "Child Care and Foster Care Licensing," Sections 400 through 499; (4-6-23)(7-1-24)T
- d. Any changes in the agency's decision regarding placement specifications, based on the investigation's findings; and (4-6-23)
- e. Recommendations regarding licensing action and any required corrective action. (4-6-23)

**(BREAK IN CONTINUITY OF SECTIONS)**

**362. FAMILY HOME STUDY, APPLICATION PROCESS, AND CONTENT.**

An agency must complete or obtain a home study and application before approving the home for the placement of a child. (4-6-23)

**01. Required Information.** The home study must meet the requirements outlined in IDAPA 16.06.01 and include the following: (4-6-23)(7-1-24)T

- a. When there is a change in persons residing in the home, the applicant must notify the agency of the change by the next working day, and the new adult member must complete a background check; (4-6-23)
- ~~b. Verification that the age of the applicant complies with Section 16-1502, Idaho Code;~~ (4-6-23)
- ~~c. Names, including maiden or other names used;~~ (4-6-23)
- ~~db. Social Security Number;~~ (4-6-23)
- ~~e. Education;~~ (4-6-23)
- ~~f. Verification of marriages and divorces;~~ (4-6-23)
- ~~g. Religious and cultural practices, including their willingness and ability to accommodate or provide care to a child of a different race, religion, or culture;~~ (4-6-23)
- ~~h. A statement of income and financial resources and the family's management of these resources;~~ (4-6-23)
- ~~i. Marital relationship, if applicable, including decision-making, communication, and roles within the family;~~ (4-6-23)
- ~~jc. Description of individuals and family dynamics with each member of the household;~~ (4-6-23)
- ~~kd. Documentation of any current or past family problems, including mental illness, substance abuse, addiction, and medical conditions;~~ (4-6-23)
- ~~l. Previous criminal convictions of child abuse and neglect;~~ (4-6-23)
- ~~m. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving;~~ (4-6-23)
- ~~ne. Special needs of the applicant's children and a description of how they will adjust to a new member of the household;~~ (4-6-23)

- ~~o.~~ Interests and hobbies; (4-6-23)
- ~~p.~~ Adequacy of the house, property, and neighborhood as determined by onsite observations; (4-6-23)
- ~~q.~~ Child care and parenting skills; (4-6-23)
- ~~r.~~ Current methods of discipline; (4-6-23)
- ~~s.f.~~ Demonstrated understanding of the care that must be provided to the children served by the agency or express a willingness to learn how to provide that care; (4-6-23)
- ~~t.g.~~ The applicant has adequate time to provide care and supervision for children; (4-6-23)
- ~~u.h.~~ Demonstration of a home life that gives children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home; (4-6-23)
- ~~v.~~ A medical statement for each applicant and members of the household, signed by a medical professional, within the twelve (12) month period prior to initial approval for adoption, indicating they are in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; (4-6-23)
- ~~w.~~ Three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s); (4-6-23)
- ~~x.~~ Names of each member of the household; this includes any persons who reside at the applicant's address; (4-6-23)
- ~~y.~~ Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; (4-6-23)
- ~~z.~~ Understanding of the permanence of adoption; (4-6-23)
- ~~aa.~~ The family's prior and current experiences with adoption; (4-6-23)
- ~~bb.~~ The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (4-6-23)
- ~~cc.~~ Family's attitudes toward the adoptive child's birth family and willingness to allow them contact with the child after adoption; (4-6-23)
- ~~dd.i.~~ Applicant's experience with other support agencies or resources in their communities and their comfort level in seeking help from services outside the family; (4-6-23)
- ~~ee.j.~~ Applicant's awareness of the potential for the child to have identity issues and loss regarding separation from birth parents; (4-6-23)
- ~~ff.k.~~ Applicant's ability to accept a child's background and help the child cope with their past; (4-6-23)
- ~~gg.l.~~ Applicant's understanding that the child will have questions about birth parents and other relatives; (4-6-23)(7-1-24)I
- and
- ~~hh.~~ Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional, and educational characteristics; (4-6-23)
- ~~ii.~~ Information on the adoptive family's medical insurance coverage including insurance carrier;

~~policy number, eligibility of new adoptive family member(s), limitations, and exclusions; and (4-6-23)~~

~~jjm.~~ How the household will fulfill their transportation needs. (4-6-23)

**02. Pre-Adoptive Parent to Inform Agency of Changes.** The pre-adoptive parent is responsible to keep the agency that completed the home study informed of changes in the family's circumstances, or of any subsequent decision against adoption. (4-6-23)

**03. Adoptive Placement Agreement.** A home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, a home study remains valid for a period of two (2) years from the home study date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (4-6-23)

**363. SAFETY REQUIREMENTS.**

The property, structure, premises, and furnishings of an adoptive home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The safety requirements must be consistent with IDAPA 16.06.02, "Foster Care Licensing," and may require that additional safety rules be met if the agency deems appropriate. (4-6-23)(7-1-24)T

~~**01. Pools, Hot Tubs, and Ponds.** Homes must provide the following safeguards: (4-6-23)~~

~~**a.** Around any body of water, children have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; (4-6-23)~~

~~**b.** The area surrounding access to a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that prevents access by a child; (4-6-23)~~

~~**c.** Pool or hot tub covers be completely removed when in use; (4-6-23)~~

~~**d.** When the pool or hot tub cover is in place, the cover is free from standing water; (4-6-23)~~

~~**e.** Covers are always secured when the pool or hot tub is not in use; and (4-6-23)~~

~~**f.** Exterior ladders on above-ground pools be removed when the pool is not in use. (4-6-23)~~

~~**02. Access by Children Five Years Old and Under.** Any home that has children five (5) years old or younger and chooses to prevent access to a body of water by fencing must provide the following: (4-6-23)~~

~~**a.** The fence be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (4-6-23)~~

~~**b.** The gate be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (4-6-23)~~

~~**c.** If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool have alarms that produce an audible sound when the doors are opened; and (4-6-23)~~

~~**d.** Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. (4-6-23)~~

~~**03. Irrigation Canals or Similar Bodies of Water.** A home that has a child five (5) years old or younger or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water. (4-6-23)~~

**364. FLAME AND HEAT PRODUCING EQUIPMENT.**

A home that has a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must ensure that said equipment is installed and maintained as recommended by the manufacturer, and fireplaces protected by screens or other means. (4-6-23)

**365. SMOKE AND CARBON MONOXIDE DETECTORS.**

Each home must meet the following: (4-6-23)

**01. Smoke Detectors.** There will be: (4-6-23)

**a.** At least one (1) single-station smoke detector that is installed and maintained as recommended by the manufacturer; (4-6-23)

**b.** One (1) smoke detector on each floor of the home, including the basement; (4-6-23)

**c.** One (1) smoke detector in each bedroom; and (4-6-23)

**d.** One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. (4-6-23)

**02. Carbon Monoxide Detectors.** There will be at least one (1) carbon monoxide detector installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. (4-6-23)

**366. EXITS.**

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if in compliance with these rules. (4-6-23)

**367. DANGEROUS AND HAZARDOUS MATERIALS.**

Dangerous and hazardous materials, objects, or equipment that could present a risk to a child, including poisonous, explosive, or flammable substances must be stored securely and out of reach of a child for the child's age and functioning level. (4-6-23)

**368. FIREARMS AND AMMUNITION.**

Ammunition must be in a locked container and inaccessible to children. Firearms must be: (4-6-23)

**01. Trigger Locks.** Unloaded and equipped with a trigger lock; (4-6-23)

**02. Unassembled and Inoperable.** Unloaded, fully inoperable, and unassembled; (4-6-23)

**03. Locked Cabinet or Container.** Unloaded and locked in a cabinet or storage container that is inaccessible to children; or (4-6-23)

**04. Gun Safe.** Locked in a gun safe that is inaccessible to children. (4-6-23)

**369. PETS AND DOMESTIC ANIMALS.**

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. (4-6-23)

**370. HEAT, LIGHT, AND VENTILATION.**

A home must have adequate heat, light, and ventilation. (4-6-23)

**371. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.**

A home must meet the following: (4-6-23)

~~**01. Bathrooms.** A minimum of one (1) flush toilet, one (1) sink that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all in good working order. (4-6-23)~~

~~**02. Water Supply.** The water supply meets one (1) of the following requirements: (4-6-23)~~

~~**a.** It is water used for consumption that is bottled water from an acceptable source or water boiled for a period specified by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or (4-6-23)~~

~~**b.** Water used for consumption is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (4-6-23)~~

~~**03. Sewage Disposal.** Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." (4-6-23)~~

~~**364. – 371. (RESERVED)**~~

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2403

### NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is June 5, 2024.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This rule chapter is promulgated pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rule makes the following changes:

1. It eliminated the fee schedule for adoptions through the Department and clarifies that the foster parent home study qualifies for the adoption home study.
2. It defines as “kin” foster parents who have a significant relationship with the child for at least six months.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to reduce a regulatory burden by eliminating the adoption fee schedule.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

This rule eliminates the fee schedule for adoptions through the Department, which is expected to have an annual fiscal impact of less than \$5,000, and the change is necessary to ensure all Idahoans can pursue adoption through the Department.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Alex Adams, Director, 208-334-5500.

DATED this 5th day of June, 2024.

Alex J. Adams, PharmD, MPH  
Director  
Idaho Department of Health & Welfare  
450 W. State Street, 10th Floor  
P.O. Box 83720  
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[Alex.Adams@dhw.idaho.gov](mailto:Alex.Adams@dhw.idaho.gov)

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2403**  
**(Only Those Sections With Amendments Are Shown.)**

**16.06.01 – CHILD AND FAMILY SERVICES**

**011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.**

For the purposes of these rules, the following terms are used: (3-15-22)

**01. Family.** Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (3-15-22)

**02. Family Assessment.** An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-15-22)

**03. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (3-15-22)

**04. Family (Case) Plan.** Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how, and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-15-22)

**05. Family Services Worker.** Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. (3-15-22)

**06. Federally-Funded Guardianship Assistance for Relatives.** Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (3-15-22)

**07. Field Office.** A Department of Health and Welfare service delivery site. (3-15-22)

~~**08. Goal.** A statement of the long-term outcome or plan for the child and family. (3-15-22)~~

~~**09. Independent Living.** Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-three (23), designed to support a successful transition to adulthood. (3-15-22)~~

~~**10. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-15-22)~~

~~**11. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-15-22)~~

~~**a.** A member of an Indian tribe; or (3-15-22)~~

~~**b.** Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-15-22)~~

~~**12. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-15-22)~~



**132. Indian Child's Tribe.** (3-15-22)

a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-15-22)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-15-22)

**143. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-15-22)

**154. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (3-15-22)

**165. Interethnic Adoption Provisions of 1996 (IEP).** IEP prohibits delaying or denying the placement of a child for adoption or foster care on race, color or national origin of the adoptive or foster parent(s), or the child involved. (3-15-22)

**176. Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-15-22)

**187. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, ~~and~~ members of a child's Indian tribe, and foster parents who have a significant relationship with the child for at least six (6) months. Also known as fictive kin. ~~(3-15-22)~~(6-5-24)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**790. FOSTER PARENT ADOPTIONS.**

The procedure and requirements are the same for all adoptive applicants. ~~This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. Licensed foster parents with a current home study recommending them for both foster care and adoption do not need an adoption specific home study to adopt a child matching the characteristics of a child or children for whom they are approved or recommended for placement. They are eligible to be considered for adoption as part of the home study process completed to provide foster care.~~ These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. ~~(3-15-22)~~(6-5-24)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**801. -- ~~829~~32. (RESERVED)**

**~~830. ADOPTION APPLICATION FEE.~~**

~~The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs.~~ (3-15-22)

**~~831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.~~**

~~A family who cares for a child, or children, with special needs who is in the custody of the Department is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who did not pay the fee uses that home study to pursue adoption of a child not in the Department's custody, the family must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules.~~ (3-15-22)

**~~832. FEE SCHEDULE – ADOPTIONS THROUGH DEPARTMENT.~~**

<b>TABLE 832</b>	
<b>Service</b>	<b>Fee</b>
General Information/Adoption Inquiries	No Charge
Health and Welfare Application-	
-Couple-	\$50
-Single Parent-	\$25
Second Placement or Reapplication	\$25
Pre-placement Home Study – Payment due at time of study or per agreement	\$450
Report to Court under the Adoption Act	\$150
Second Placement	\$150
Placement Supervision Fee – Charged at the time of placement	\$300
Closed Adoption Home Study/Court Report Retrieval Fee	\$50
Report to the Court Under the Termination Act	\$40 per hour

(3-15-22)

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~834. -- 849. (RESERVED)~~**

**~~850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.~~**

~~Independent adoptive placements are handled under Section 16-1506, Idaho Code.~~

(3-15-22)

**~~851.—859. (RESERVED)~~**

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

### **16.06.02 – FOSTER CARE LICENSING**

#### **DOCKET NO. 16-0602-2401 (CHAPTER REPEAL)**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

The current chapter is being repealed and is replaced in Docket No. 16-0602-2402 which is also published in this bulletin.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH  
Director  
Idaho Department of Health & Welfare  
450 W. State Street, 10th Floor  
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**IDAPA 16.06.02 IS BEING REPEALED IN ITS ENTIRETY**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.02 – FOSTER CARE LICENSING

### DOCKET NO. 16-0602-2402 (CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

This rule makes three primary changes:

1. It expedites action on completed foster family applications from 30-days (current rule) to 1 business day.
2. It makes more evident that the Department will fund, within its appropriation, reasonable modifications necessary to meet home health and safety standards for foster homes to “license in” versus “licensing out.” For example, if a family does not have a required fire extinguisher, the Department may provide one to the family rather than excluding them from licensure.
3. It moves closer to kin-specific licensure standards by defaulting to the ACF national model where appropriate, and deferring to the foster parent where appropriate.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH  
Director  
Idaho Department of Health & Welfare  
450 W. State Street, 10th Floor  
P.O. Box 83720  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 16-0602-2402  
(Chapter Rewrite)**

**16.06.02 – FOSTER CARE LICENSING**

**000. LEGAL AUTHORITY.**

Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8) Idaho Code, authorize the Department and the Board to adopt and enforce rules for licensing foster homes. (7-1-24)T

**001. -- 009. (RESERVED)**

**010. DEFINITIONS.**

In addition to those terms used in Title 39, Chapter 12, the following apply: (7-1-24)T

**01. Caregiver.** A foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. (7-1-24)T

**02. Child.** Includes individuals age eighteen (18) to twenty-one (21) who are ordered into or voluntarily entered Extended Foster Care through the Department. (7-1-24)T

**03. Department.** The Idaho Department of Health and Welfare or its authorized representatives. (7-1-24)T

**04. Foster Home.** Includes both foster homes and relative foster homes as set forth in Idaho Code. (7-1-24)T

**05. Foster Parent.** A person(s) residing in a private home under their direct control to whom a foster care license has been issued. (7-1-24)T

**06. Household Member.** Any person, other than a foster child, who resides in, or on the property of, a foster home. (7-1-24)T

**07. Medical Professionals.** Persons who have received a degree in nursing or medicine and are licensed as a registered nurse, nurse practitioner, physician's assistant, or medical doctor. (7-1-24)T

**08. Noncompliance.** Violation of, or inability to meet, the requirements of these rules or terms of licensure. (7-1-24)T

**09. Plan of Correction.** The detailed procedures and activities developed between the Department and caregiver required to bring a foster family into conformity with these rules. (7-1-24)T

**10. Restraint.** Physical interventions to control the range and motion of a child. (7-1-24)T

**11. Supervision.** Is defined as being within sight and normal hearing range of the child or children being cared for. (7-1-24)T

**12. Variance.** A temporary non-application of a foster care licensing rule that is resolved within six (6) months of approval. (7-1-24)T

**13. Waiver.** The permanent non-application of a foster care licensing rule, if in the Department's judgment, the health and safety of the child is not compromised. (7-1-24)T

**011. -- 101. (RESERVED)**

**102. DISPOSITION OF APPLICATIONS.**

The Department will expeditiously initiate action on each completed application within one (1) business day after receipt that addresses each requirement for the specific type of home. (7-1-24)T

**01. Approval of Application.** The Department will issue a license to any foster home complying with these rules. (7-1-24)T

**02. Regular License.** The Department will issue a regular license to any foster home complying with these rules and will specify the terms of licensure, such as: (7-1-24)T

**a.** The number of children who may receive care at any one (1) time; and (7-1-24)T

**b.** Age range and sex if there are conditions in the foster home making such limitations necessary; (7-1-24)T

**c.** The regular license for a foster home is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (7-1-24)T

**d.** If the license for a foster home is for a specific child, the name of that child will be shown on the foster home license. (7-1-24)T

**03. Waiver or Variance.** A regular license may be issued to the foster home who has received a waiver or variance of licensing rules provided: (7-1-24)T

**a.** The approval is considered on an individual case basis; (7-1-24)T

**b.** The approval will, in the judgement of the Department, maintain the safety of the child(ren); (7-1-24)T

**c.** All other licensing requirements have been met; (7-1-24)T

**d.** The Department will document a description of the reasons for issuing a waiver or variance, the rules involved, and assurance that the waiver or variance will not compromise the child's safety; and (7-1-24)T

**e.** The approved waiver or variance must be reviewed for continued need and approved annually. (7-1-24)T

**04. Limited License.** May be issued for the care of a specific child in a home which may not meet the

requirements for a license, provided: (7-1-24)T

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (7-1-24)T

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than removal to another home. (7-1-24)T

**05. Denial of Application.** If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until one (1) year after the date on the denial of application. (7-1-24)T

**06. Failure to Complete Application Process.** Failure to complete the application process within six (6) months from the original date of application will result in vacation of the application. (7-1-24)T

**07. Facilitating Applications.** (7-1-24)T

a. The Department may, within its appropriation, cover reasonable expenses to ensure homes meet the requirements of these rules including the home health and safety requirements and sleeping arrangements. (7-1-24)T

b. The Department will establish procedures to fast-track applications from candidates who have a successful track record of serving as a foster home in other states. (7-1-24)T

**103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.**

**01. Department-Issued License.** Applies only to the foster home or the person and premises designated. Each license is issued in the individual's name, and to the address specified on the application. A license issued in the name of a foster parent applies to the period and services specified in the license. Any change in address renders the license null and void, and the foster parent must immediately return the license to the Department. (7-1-24)T

**02. Nontransferable.** A license is nontransferable from one (1) individual to another or from one (1) location to another. (7-1-24)T

**03. Change in Location.** When there is a change in foster home location, the foster home parent must reapply for a license. (7-1-24)T

**104. (RESERVED)**

**105. REVISIT AND RELICENSE.**

Revisit and relicense studies will document how the foster home continues to meet licensing standards. Consideration must be given to each standard, including a review of the previous study and original application to determine what changes have occurred. A renewal application must be made by the foster home on the Department-furnished form and filled out prior to the expiration date of the license in effect. The existing license will, unless officially revoked, remain effective until the Department has acted on the application for renewal. (7-1-24)T

**106. COMPLAINTS.**

**01. Investigation.** The Department will investigate complaints regarding foster homes. The investigation may include further contact with the complainant, scheduled or unannounced visits to the foster home, collateral contacts including interviews with the victim, parents or guardian, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (7-1-24)T

**02. Informed of Action.** If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (7-1-24)T



**107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT.**

When circumstances occur over which the foster parent has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home out of compliance with these rules, the license must be suspended until the nonconformity is remedied. (7-1-24)T

**108. (RESERVED)**

**109. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF CHILDREN.**

The Department may summarily suspend a foster home license. Children in a foster home require the program to transfer children when the Department has determined a child's health and safety are in immediate jeopardy. (7-1-24)T

**110. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF CHILDREN.**

The Department may revoke the license of a foster home when the Department determines the home is not in compliance with these rules. Revocation and transfer of children may occur under the following circumstances: (7-1-24)T

**01. Endangers Health or Safety.** Any condition that endangers the health or safety of any child. (7-1-24)T

**02. Not in Substantial Compliance.** A foster home is not in substantial compliance with these rules. (7-1-24)T

**03. No Progress to Meet Plan of Correction.** A foster home has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (7-1-24)T

**04. Repeat Violations.** Repeat violations of these rules or of Title 39, Chapters 11 and 12, Idaho Code. (7-1-24)T

**05. Misrepresented or Omitted Information.** A foster home has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (7-1-24)T

**06. Refusal to Allow Access.** Refusal to allow Department representatives full access to the foster home and its grounds, facilities, and records. (7-1-24)T

**07. Violation of Terms of Provisional License.** A foster home, that has violated any of the terms of a provisional license. (7-1-24)T

**111. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.**

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. (7-1-24)T

**112. -- 199. (RESERVED)**

**200. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.**

These rules do not supersede the licensing authority of Indian tribes under the Indian Child Welfare Act, P.L. 95-608, 25 USC, Sections 1901 – 1963. (7-1-24)T

**201. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.**

An applicant for licensure as a foster parent must meet the following: (7-1-24)T

**01. Age.** Be eighteen (18) years old or older. (7-1-24)T

**02. Communication.** Be able to communicate with the child, the children's agency, and health care

and other service providers. (7-1-24)T

**03. Income and Resources.** Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. (7-1-24)T

**04. Literacy.** At least one (1) adult caretaker in the home must have functional literacy, such as the ability to read medication labels. (7-1-24)T

**202. BACKGROUND CHECKS.**

All applicants for a foster care license and other adult members of the household must comply with IDAPA 16.05.06, “Criminal History and Background Checks,” and the following: (7-1-24)T

**01. Change in Household Membership.** By the next working day after another adult begins residing in a foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult household member will complete a background check within fifteen (15) days of residence in the foster home. (7-1-24)T

**02. Foster Parent’s Child Turns Eighteen.** A foster parent’s child who turns eighteen (18) and lives continuously in the home is not required to have a background check except as specified in this rule. (7-1-24)T

**a.** After turning eighteen (18) years old, if the foster parent’s adult child no longer lives in the foster parent’s home and subsequently resumes living in the foster home, they will be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. (7-1-24)T

**b.** If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, they are not considered to be an adult household member and are not required to complete a background check. While in the home, they cannot have any unsupervised direct care responsibilities for any foster children in the home. Should they remain in the foster home for more than ninety (90) days, they will immediately be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. (7-1-24)T

**c.** If the adult child continues to live in their parent’s foster home or on the same property, they must complete a background check within fifteen (15) days of turning twenty-one (21). This requirement is not necessary if the adult child has completed a background check between the ages of eighteen (18) and twenty-one (21). (7-1-24)T

**03. Background Check at Any Time.** The Department retains the authority to require a background check at any time on individuals who are residing in a foster home or on the foster parent’s property. (7-1-24)T

**04. Emergency Placement of Children.** An emergency occurs when a child enters or experiences an unplanned placement change in foster care. The Department may request that a criminal justice agency perform a Federal Interstate Identification Index name-based criminal history record check of each adult residing in the home. This refers to those limited instances when placing a child in the home of relatives or kin, as a result of a sudden unavailability of the child's parent or caretaker. (7-1-24)T

**a.** All adult household members will submit fingerprints to the Department's Background Check Unit within ten (10) calendar days and follow requirements outlined in IDAPA 16.05.06, “Criminal History and Background Checks.” The Department forwards the fingerprints to the State Central Record Repository for submission to the FBI within fifteen (15) calendar days from the date the name search was conducted. The Department's background check unit will positively identify the individual that is being considered to receive the child in an emergency situation as their fingerprints are submitted. (7-1-24)T

**b.** When placement of a child in a home is denied as a result of the Department review of the name-based criminal history record check of any adult household member, all adults must still comply with Subsection 202.05.a. of this rule and IDAPA 16.05.06, “Criminal History and Background Checks.” (7-1-24)T

c. The child will be removed from the home immediately if any adult household member fails to provide written permission to perform a federal criminal history record check, submit fingerprints, or any adult household member is denied a Department background check clearance. (7-1-24)T

**05. Exceptions to Background Checks.** Background checks are optional for certain youth in foster care who reach the age of eighteen (18) but are less than twenty-one (21) years of age and continue to reside in the same licensed foster home. (7-1-24)T

**203. INITIAL AND ONGOING EVALUATION.**

An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. (7-1-24)T

**01. Applicant Participation.** The applicant must do all the following: (7-1-24)T

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; (7-1-24)T

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; (7-1-24)T

c. All household members must disclose current mental health and/or substance abuse issues. (7-1-24)T

d. All household members must provide information on their physical and mental health history, including any history of drug or alcohol abuse or treatment. (7-1-24)T

e. Provide two (2) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. (7-1-24)T

**02. Disclosure of Information and Assurances.** An applicant must provide the children's agency with the following or any additional information the children's agency deems necessary to complete the initial family home study: (7-1-24)T

a. Names, including maiden or other names used, and ages of the applicant(s); (7-1-24)T

b. Social Security Number; (7-1-24)T

c. Education; (7-1-24)T

d. Verification of marriages and divorces; (7-1-24)T

e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; (7-1-24)T

f. Statement of income and financial resources and the family's management of these resources; (7-1-24)T

g. Reasons for applying to be a foster parent; (7-1-24)T

h. Report any prior arrest, investigation, or other official action regarding a sexual offense or impropriety. (7-1-24)T

i. Provide and abide by the following written assurances: (7-1-24)T

i. Applicants will not use corporal or degrading punishment. (7-1-24)T

ii. Applicants will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and/or nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated. (7-1-24)T

iii. Applicants and their guests will not smoke in the foster family home, in any vehicle used to transport the child, or in the presence of the child in foster care. (7-1-24)T

iv. Applicants will adhere to the Department's reasonable and prudent parent standard. (7-1-24)T

**03. Home Study.** The applicant must complete an agency home study, which is a written comprehensive family assessment to include the following elements: (7-1-24)T

a. At least one scheduled on-site visit to assess the home to ensure that it meets the standards set forth in these rules; (7-1-24)T

b. At least one scheduled in-home interview for each household member to observe family functioning and assess the family's capacity to meet the needs of a child or children in foster care; (7-1-24)T

c. The Department has discretion on whether to interview or observe each household member based on his or her age and development. (7-1-24)T

**204. SUBSEQUENT EVALUATIONS.**

A foster parent must comply with the following: (7-1-24)T

**01. Reasonable Access.** A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child, and any household member to determine compliance with these rules, for child supervision purposes, and to conduct a relicensure study. (7-1-24)T

**02. Update Information.** Provide all changes to the information in the initial evaluation and subsequent evaluations. (7-1-24)T

**03. Family Functioning.** Provide information on changes in family functioning and inter-relationships. (7-1-24)T

**04. Other Circumstances.** Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. (7-1-24)T

**05. Plan of Correction.** Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule noncompliance identified by any evaluation conducted by the children's agency. (7-1-24)T

**205. FOSTER PARENT DUTIES.**

A foster parent must do the following: (7-1-24)T

**01. Case Plan Implementation.** Cooperate with, and assist the children's agency with implementation of the case plan for children and their families. (7-1-24)T

**02. Reporting Progress and Problems.** Promptly and fully disclose to the children's agency information concerning a child's progress and problems. (7-1-24)T

**03. Termination of Placement.** Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) days before the move, except when a delay would jeopardize the child's care or safety, or the safety of members of the foster family. (7-1-24)T

**206. FOSTER PARENT TRAINING.**

**01. Reasonable and Prudent Parent Standard.** Each caregiver will complete training on knowledge

and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. (7-1-24)T

**02. Additional Training.** The department will make available training on the following topics: rights, roles, responsibilities and expectations of foster parents; laws and regulations; the impact of childhood trauma; managing child behaviors; first aid and medication administration; and the importance of maintaining meaningful connections between the child and parents, including regular visitation. The department will also make available ongoing training to receive instruction to support their parental roles and ensure the parent is up to date with agency requirements. Further, this training may also include child-specific training and/or may address issues relevant to the general population of children in foster care. (7-1-24)T

**207. -- 229. (RESERVED)**

**230. HOME HEALTH AND SAFETY REQUIREMENTS.**

**01. Living Space.** The living space or structure of a foster home will be a house, mobile home (as defined under Title 39, Chapter 41, Idaho Code), housing unit, or apartment occupied by an individual or family. The home must have: (7-1-24)T

- a.** An adequate supply of safe drinking water. In cases of non-municipal water, the department may test for safety; (7-1-24)T
- b.** A properly operating kitchen with a sink, refrigerator, stove, and oven; (7-1-24)T
- c.** At least one toilet, sink and tub or shower in operating condition; (7-1-24)T
- d.** Heating and/or cooling as required by the geographic area, consistent with accepted community standards and in safe operating condition; and (7-1-24)T
- e.** A working phone or access to a working phone in close walking proximity. (7-1-24)T

**02. Condition of the Home.** The applicant's home, grounds, and all structures on the grounds of the property must be properly maintained in a clean, safe, and sanitary condition and in a reasonable state of repair within community standards. The interior and exterior must be free from dangerous objects and conditions, and from hazardous materials. The home must meet the following requirements: (7-1-24)T

- a.** Have adequate lighting, ventilation and proper trash and recycling disposal, if recycling is available; (7-1-24)T
- b.** Be free from rodents and insect infestation. (7-1-24)T
- c.** Proper water heater temperature; (7-1-24)T
- d.** Weapons and ammunition (separately) stored, locked, unloaded, and inaccessible to children; (7-1-24)T
- e.** Have conditions that prevent the child's access, as appropriate for his or her age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages; (7-1-24)T
- f.** Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. Dogs must be vaccinated for rabies and comply with Section 25-2810, Idaho Code. (7-1-24)T
- g.** Swimming pools, hot tubs, and spas must meet the following to ensure they are safe and hazard free (and additionally must meet all state, tribal and/or local safety requirements): (7-1-24)T

- i. Swimming pools must have a barrier on all sides. (7-1-24)T
- ii. Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock. (7-1-24)T
- iii. Swimming pools must be equipped with a life saving device, such as a ring buoy. (7-1-24)T
- iv. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system. (7-1-24)T
- v. Hot tubs and spas must have safety covers that are locked when not in use. (7-1-24)T

**231. (RESERVED)**

**232. FIRE SAFETY, EMERGENCY PLANNING, AND EVACUATION PLAN.**

Each foster home must meet the following: (7-1-24)T

**01. Smoke Detectors.** Have at least one smoke detector on each level of occupancy of the home and at least one near all sleeping areas. (7-1-24)T

**02. Carbon Monoxide Detectors.** Have at least one carbon monoxide detector on each level of occupancy of the home and at least one near all sleeping areas. Living space that does not have equipment that produces carbon monoxide or does not have an attached garage is exempt from this requirement. (7-1-24)T

**03. Additional Fire Safety Requirements.** To be within the structure of the home: (7-1-24)T

**a.** Have at least one (1) operable fire extinguisher that is readily accessible; (7-1-24)T

**b.** Be free of obvious fire hazards such as defective heating equipment or improperly stored flammable materials; (7-1-24)T

**c.** Have a written emergency evacuation plan posted in a prominent place in the home and reviewed with children placed for foster care; (7-1-24)T

**d.** Maintain a comprehensive list of emergency telephone numbers including poison control and posted in a prominent place in the home; and (7-1-24)T

**e.** Maintain first aid supplies. (7-1-24)T

**233. SLEEPING ARRANGEMENTS.**

Applicants must provide a safe sleeping space including sleeping supplies, such as a mattress and linens or appropriate cribs for each individual child, as appropriate for the child's needs and age and similar to other household members. Foster parents must not co-sleep or bed-share with infants. (7-1-24)T

**234. -- 238. (RESERVED)**

**239. TRANSPORTATION.**

Applicants must ensure that the family has reliable, legal and safe transportation. Reliable transportation includes a properly maintained vehicle or access to reliable public transportation; if a privately-owned vehicle owned by the applicant's family or friends is used to transport the child in foster care, legal transportation includes having a valid driving license, insurance and registration; and safe transportation includes safety restraints as appropriate for the child. (7-1-24)T

**240. -- 241. (RESERVED)**

**242. CHILD PLACEMENT REQUIREMENTS.**

A foster family may mutually accept the placement of children into the home within the terms of the foster home

license and the children's agency placement agreement. The following provisions will be considered for determining placement: (7-1-24)T

**01. Determining Factors.** The number and the age group of children placed in a foster home will be determined by the following: (7-1-24)T

- a. The accessibility, accommodations, and the space in the home; (7-1-24)T
- b. The interest of the foster family; and (7-1-24)T
- c. The experience, training, or skill of the foster family. (7-1-24)T

**02. Maximum Number of Children.** Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. (7-1-24)T

**03. Children Under Two Years Old.** Except as specified in Subsection 242.04 of this rule, the maximum number of children under two (2) years old, including those of the foster family, will be limited to two (2) children or less. (7-1-24)T

**04. Special Circumstances Regarding Maximum Numbers of Children.** The maximum number of children in care at any time may be based on the children's agency assessment and at a minimum one (1) of the following: (7-1-24)T

- a. To allow siblings to remain together; (7-1-24)T
- b. To allow a child who has an established, meaningful relationship with the family to remain with the family; (7-1-24)T
- c. To allow a family with special training or skills to provide care for a child who has a severe disability; or (7-1-24)T
- d. To allow a parenting youth in foster care to remain with the child of the parenting youth. (7-1-24)T

**05. Continued Care.** A foster child who reaches the age of eighteen (18) may continue in foster care placement until the age of twenty-one (21) if the safety, health, and well-being of other foster children residing in the home is not jeopardized. (7-1-24)T

**243. INTERAGENCY PLACEMENT OF CHILDREN.**

A foster family must only accept for placement children referred from the children's agency that licenses the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed the home. (7-1-24)T

**244. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.**

A foster parent must: (7-1-24)T

**01. Substitute Care.** Place a child in substitute care only with the prior knowledge and consent of the children's agency; and (7-1-24)T

**02. Notification to Agency.** Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. (7-1-24)T

**245. (RESERVED)**

**246. BEHAVIOR MANAGEMENT AND DISCIPLINE.**

Methods of behavior management and discipline for children must be positive and consistent. These methods must be

based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. (7-1-24)T

- 01. Prohibitions.** The following types of punishment of a foster child are prohibited: (7-1-24)T
  - a.** Physical force or any kind of punishment inflicted on the body, including spanking; (7-1-24)T
  - b.** Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; (7-1-24)T
  - c.** Use of excessive physical labor with no benefit other than for punishment; (7-1-24)T
  - d.** Mechanical, medical, or chemical restraint; (7-1-24)T
  - e.** Locking a child in a room or area of the home; (7-1-24)T
  - f.** Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; (7-1-24)T
  - g.** Mental or emotional cruelty; (7-1-24)T
  - h.** Verbal abuse, ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family; (7-1-24)T
  - i.** Threats of removal from the foster home; (7-1-24)T
  - j.** Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and (7-1-24)T
  - k.** Denial of necessary educational, medical, counseling, or social services. (7-1-24)T
- 02. Restraint.** A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming themselves, other persons or property, or to allow a child to gain control of themselves. (7-1-24)T

**03. Authority.** The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. (7-1-24)T

**04. Agency Consultation.** A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. (7-1-24)T

**247. MEDICAL AND DENTAL CARE.**

**01. Health Care Services.** A foster parent must follow and carry out the health or dental care plan for a child as directed by a medical professional. (7-1-24)T

**02. Child Injury and Illness.** Follow the children's agency approved policies for medical care of a child who is injured or ill. (7-1-24)T

**03. Dispensing of Medications.** Provide prescription medication as directed by a medical professional. A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a medical professional. (7-1-24)T

**248. -- 253. (RESERVED)**

**254. RELIGIOUS AND CULTURAL PRACTICES.**

A foster parent must provide a child in care with opportunity for spiritual development and cultural practices according to the wishes of the child and the child's parent or tribe. (7-1-24)T



**255. -- 256. (RESERVED)**

**257. REASONABLE AND PRUDENT PARENT STANDARD.**

A caregiver must follow the reasonable and prudent parent standard. (7-1-24)T

**01. Reasonable and Prudent Parent Standard Defined.** “Age or developmentally appropriate” means the following: (7-1-24)T

**a.** Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and (7-1-24)T

**b.** In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. (7-1-24)T

**c.** The foster parents will seek approval from the children’s agency before altering a child’s physical appearance including haircuts, body piercing, and tattooing. (7-1-24)T

**258. -- 269. (RESERVED)**

**270. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.**

A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: (7-1-24)T

**01. Personal Data.** The child's name, sex, date of birth, religion, race, and tribe, if applicable; (7-1-24)T

**02. Any Known History of Abuse and Neglect of the Child.** (7-1-24)T

**03. Any Known Emotional and Psychological Needs of the Child.** (7-1-24)T

**04. Any Information Known about the Child’s Health.** (7-1-24)T

**05. Any Known Behavioral Problems of the Child.** (7-1-24)T

**271. REPORTING FOSTER HOME CHANGES.**

A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: (7-1-24)T

**01. Serious Illness Including Physical or Mental Health, Injury, or Death of a Foster Parent or Household Member.** (7-1-24)T

**02. Arrests, Citations, Withheld Judgments, or Criminal Convictions of a Foster Parent or Household Member.** (7-1-24)T

**03. Initiation of Court-Ordered Parole or Probation of a Foster Parent or Household Member.** (7-1-24)T

**04. Admission or Release From Facilities.** Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or household member. (7-1-24)T

**05. Change of Employment Status of a Foster Parent.** (7-1-24)T

**06. Counseling, Treatment, or Therapy.** Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or household member. (7-1-24)T

**07. Change of Residence.** A foster parent will inform the children's agency of any planned change in residence and apply for licensure at the new address not less than two (2) weeks prior to a change in residence. (7-1-24)T

**08. Household Members.** Inform the children's agency of changes in household members including minor children. (7-1-24)T

**09. Additional Licensing Application.** A foster parent will notify the children's agency within five (5) days after filing an application for a certified family home, daycare, or group daycare license. (7-1-24)T

**272. CONFIDENTIALITY.**

A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives. A foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. Foster parents will follow the Department's policies for the use of social media and posting of pictures of children in foster care. (7-1-24)T

**273. CRITICAL INCIDENT NOTIFICATION.**

The foster parent must immediately notify the responsible children's agency of any of the following incidents: (7-1-24)T

**01. Death.** Death or near death of a child in care. (7-1-24)T

**02. Suicide.** Suicidal ideation, threats, or attempts to commit suicide by the foster child. (7-1-24)T

**03. Missing.** When a foster child is missing from a foster home. (7-1-24)T

**04. Illness.** Any illness or injury that requires medical treatment of hospitalization of a foster child. (7-1-24)T

**05. Law Enforcement Authorities.** A foster child's detainment, arrest, or other involvement with law enforcement authorities. (7-1-24)T

**06. Removal of Child.** Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. (7-1-24)T

**274. -- 999. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.03 – DAYCARE LICENSING

### DOCKET NO. 16-0603-2401

#### NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1st, 2024.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 39-1107, 39-1111, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule.

This rule makes two primary changes:

- It removes the child-staff ratio specifics because it needlessly duplicates Section 39-1109(4), Idaho Code, and removing it from rule has no bearing on the statute; and
- It eliminates the fee imposed on Family Daycare Home Voluntary Licensees.

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

The state of Idaho is experiencing a shortage of available daycare slots for Idaho's children. Eliminating the fee reduces the regulatory burden on small providers of childcare, namely those seeking a voluntary license as a daycare home, eliminating barriers to entry.

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

The fee of \$100 imposed per Family Daycare Home Voluntary License has been eliminated. This has an estimated impact to the state of \$1,400 annually.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Alex J. Adams, Director, 208-334-5500.

DATED this 18th day of June, 2024.

Alex J. Adams, PharmD, MPH  
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Idaho Department of Health & Welfare  
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P.O. Box 83720  
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0603-2401  
(Only Those Sections With Amendments Are Shown.)

16.06.03 – DAYCARE LICENSING

122. DAYCARE LICENSING FEES.

A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. The total fee for initial licensure or renewal of a daycare facility must not exceed the following amounts: (7-1-24)

01. Daycare Center with More than Twenty-Five Children in Attendance at Any Given Time. Three hundred twenty-five dollars (\$325). (7-1-24)

02. Daycare Center with Thirteen to Twenty-Five Children in Attendance at Any Given Time. Two hundred fifty dollars (\$250). (7-1-24)

03. Group Daycare Facility. One hundred dollars (\$100). (7-1-24)

~~04. Family Daycare Home Voluntary License. One hundred dollars (\$100). (7-1-24)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. CHILD-STAFF RATIO.

~~Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio based on a point system. (7-1-24)~~

~~01. Daycare Child-Staff Ratio Point System. The maximum allowable points for each staff is twelve (12), using the following point system which is based on the age of each child in attendance: (7-1-24)~~

~~a. Under twenty-four (24) months old, each child equals two (2) points. (7-1-24)~~

~~b. From twenty-four (24) months old to under thirty-six (36) months, each child equals one and one-half (1-1/2) points. (7-1-24)~~

~~c. From thirty-six (36) months old to under five (5) years, each child equals one (1) point. (7-1-24)~~

~~d. From five (5) years old to under thirteen (13) years, each child equals one half (1/2) point. (7-1-24)~~

02. Child-Staff Ratios. Ratios must be maintained during all hours of operation when children are in attendance and when transporting children. (7-1-24)

a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; (7-1-24)

b. Each adult staff who is providing direct care for a child(ren) is counted by the Department as one (1) staff for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and (7-1-24)

c. Each staff sixteen (16) and seventeen (17) years old must be under the supervision of an adult staff,

when providing direct care for a child(ren), and may be counted by the Department as one (1) staff for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. (7-1-24)

**032. Supervision of Children.** The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting the child-staff ratio requirements, the owner or operator of a daycare facility must ensure that: (7-1-24)

**a.** At least one (1) adult staff is always awake and on duty on the premises during regular business hours or when children are in attendance; and (7-1-24)

**b.** All providers, owners, and staff who provide direct care to children must have current certification in pediatric rescue breathing (CPR) and pediatric first aid from a certified instructor. Providers who do not have these certifications will not count in child-staff ratios. (7-1-24)

**034. Sleeping Children.** Must be within sight and normal hearing range of a provider. (7-1-24)

**045. Overnight Daycare.** For daycare operators providing overnight care of children, the following must apply: (7-1-24)

**a.** A sleeping child sleeps on the same level as the staff member who must be able to hear the child; and (7-1-24)

**b.** A staff member is awake and on duty to release and receive a child. (7-1-24)

**c.** Children sleeping at the facility have separate cots, mats, or beds and blankets. (7-1-24)

**d.** A child will not share a bed with a non-parent adult. (7-1-24)

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.04.15 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

DOCKET NO. 18-0415-2401

### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Title 41, Chapters 2, 21, 42, and 52, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Tuesday, July 23, 2024</b> <b>2:00 p.m. to 4:00 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <b><a href="#">Click here to join the meeting</a></b> <b>Meeting ID: 215 170 390 451</b> <b>Passcode: hvN4dr</b> <b><a href="#">Download Teams</a>   <a href="#">Join on the web</a></b>

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

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting in person or via web conferencing. While verbal comments are accepted during the scheduled meeting, DOI requests all comments also be submitted in writing for the record. Information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule implements Title 41, Chapters 21, 42, and 52, Idaho Code, regarding short-term, limited-duration insurance by defining requirements for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability, and required disclosure provisions. The purpose of the negotiated rulemaking is to receive input regarding federal rule changes that affect these policies.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department's website at the following web address: <https://doi.idaho.gov/information/regulation/leg/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 24, 2024.

DATED this 5th day of June, 2024.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**

**18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE**

**DOCKET NO. 18-0801-2401**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<p><b>Tuesday, July 23, 2024</b> <b>2:00 p.m. to 4:00 p.m. (MT)</b></p>
<p><i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b></p> <p><i>Web meeting link:</i> <b><a href="#">Click here to join the meeting</a></b> <b>Meeting ID: 215 170 390 451</b> <b>Passcode: hvN4dr</b> <b><a href="#">Download Teams</a>   <a href="#">Join on the web</a></b></p>

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

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting in person or via web conferencing. While verbal comments are accepted during the scheduled meeting, DOI requests all comments also be submitted in writing for the record. Information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule adopts the International Fire Code and edits by the State Fire Marshal, as the minimum standard for the protection of life and property from fire and explosion in the State of Idaho. The primary purpose of the negotiated rulemaking is to receive input regarding section 017, Violation Penalties, IFC Section 110.4.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department’s website at the following web address: <https://doi.idaho.gov/information/regulation/leg/>.



Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 24, 2024.

DATED this 5th day of June, 2024.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**  
**DOCKET NO. 18-ZBRR-2401 (ZBR CHAPTER REWRITES)**  
**OMNIBUS NOTICE OF INTENT TO PROMULGATE RULES –**  
**ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211, 41-327, 41-1305, 41-1314, 41-1327, 41-1334, 41-1965, and 41-3309, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Tuesday, July 23, 2024</b> <b>2:00 p.m. to 4:00 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Department of Insurance</b> <b>700 W. State St. 3rd Floor</b> <b>Boise, ID 83702</b>
<i>Web meeting link:</i> <a href="#"><b>Click here to join the meeting</b></a> <i>Meeting ID: 215 170 390 451</i> <i>Passcode: hvN4dr</i> <a href="#"><b>Download Teams</b></a>   <a href="#"><b>Join on the web</b></a>

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

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting in person or via web conferencing. While verbal comments are accepted during the scheduled meeting, DOI requests all comments also be submitted in writing for the record. Information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These rules are being presented for authorization as part of the DOI's plan to review each rule every 5 years. There are no specific rulemaking changes planned by the DOI at this time except for evaluation and amendment consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The DOI intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

The following IDAPA rule chapters are germane to this rulemaking:

- 18.01.01 – Rule to Implement the Privacy of Consumer Financial Information;
- 18.03.02 – Life Settlements;
- 18.03.03 – Variable Contracts;
- 18.03.04 – Replacement of Life Insurance and Annuities;
- 18.04.03 – Advertisement of Disability (Accident and Sickness) Insurance;
- 18.05.01 – Rules for Title Insurance Regulation;
- 18.06.06 – Surplus Line Rules;
- 18.07.04 – Annual Financial Reporting; and
- 18.07.05 – Director’s Authority for Companies Deemed to be in Hazardous Financial Condition.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Weston Trexler, (208) 334-4214, [weston.trexler@doi.idaho.gov](mailto:weston.trexler@doi.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department’s website at the following web address: <https://doi.idaho.gov/information/regulation/leg/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 24, 2024.

DATED this 5th day of June, 2024.

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.13 – ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS**  
**DOCKET NO. 20-0313-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). IDAPA 20.03.13 provides guidance for residential cottage site leasing on state lands by establishing restrictions regarding assignments and describing how annual rent will be determined. It is the Department's intention to make minimal updates to the rule text.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024 edition of the Idaho Administrative Bulletin, [Vol. 24-3, pages 14-15](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kemp Smith at 208-334-0202 or [KeSmith@idl.idaho.gov](mailto:KeSmith@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Kemp Smith, Commercial and Residential Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83702  
Phone: 208-334-0202; Fax: 208-334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0313-2401**  
**(ZBR Chapter Rewrite.)**

20.03.13 – ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS

000. LEGAL AUTHORITY.

The ~~State Board of Land Commissioners~~ has adopted these rules in accordance with Article IX, Section 8 of the Idaho Constitution and Sections 58-104(1) and 58-304, Idaho Code. (3-18-22)(    )

001. ~~TITLE AND SCOPE.~~

~~01. Title. These rules are titled IDAPA 20.03.13, “Administration of Cottage Site Leases on State Lands.” (3-18-22)~~

~~02. Scope. It is the intent and express policy of the Board in administration of eCottage sSite leases located on state-owned lands administered by the Board, to provide for a reasonable rental income from those lands in accordance with the requirements of the Idaho Constitution of the State of Idaho. (3-18-22)(    )~~

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~For the purposes of these rules, unless otherwise indicated by express term or by context, the term: (3-18-22)~~

01. **Annual Rental.** The rental paid on or before January 1, in advance, for the following year. (3-18-22)

02. **Board.** The State Board of Land Commissioners, or its designee. (3-18-22)(    )

03. **Cottage Site.** Any state-owned lot that is leased for recreational residential purposes. (3-18-22)

04. **Department.** The Idaho Department of Lands. (3-18-22)

~~05. Lessee. A tenant of a cottage site. (3-18-22)~~

011. -- 019. (RESERVED)

020. SALE AND ASSIGNMENT ~~—REQUIRED DOCUMENTATION.~~

01. **Documentation of Sale.** The Prior to the assignment of a Cottage Site Lease, the lessee must provide the Department, at their expense, the following documents concerning associated with a eCottage sSite sale prior to assignment of the cottage site lease. (3-18-22)(    )

a. The original of the current lease; or (3-18-22)

b. A signed and notarized Affidavit of Loss if the current lease has been lost. (3-18-22)

02. **Assignments.** A lease may ~~only~~ be assigned only to an individual or to a husband or wife. The Board will not recognize assignments to corporations, partnerships, or companies. Leases may be assigned to and held by an estate only if one (1) individual or husband or wife are designated as the sole contact for all billing and correspondence. A lessee may only hold one (1) eCottage sSite lease at a time. (3-18-22)(    )

021. -- 024. (RESERVED)

025. ~~LEASE RATE ANNUAL RENTAL DETERMINATION — ANNUAL RENTAL.~~

Annual ~~R~~ental is set by the Board ~~from time to time as deemed necessary.~~ It is the intent of the ~~State Board of Land Commissioners~~ that ~~those~~ rental rates be determined through market indicators of comparable land values. (3-18-22)(    )

026. -- 999. (RESERVED)

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.03.14 – RULES GOVERNING GRAZING, FARMING, AND CONSERVATION LEASES**  
**DOCKET NO. 20-0314-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2024 and legislative review in 2025 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count (-10.35%) and the number of restrictive words (-37.8%) in the proposed rule. No changes were made that changed the context of the previous rule.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024, Idaho Administrative Bulletin, [Vol. 24-3, pages 16-17](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Addie Faust at (208) 334-0275 or [afaust@idl.idaho.gov](mailto:afaust@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Addie Faust, Natural Resource Leasing Program Manager  
Idaho Department of Lands  
300 N 6th St. Suite 103  
Boise ID, 83702  
Phone: (208) 334-0275  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0314-2401  
(ZBR Chapter Rewrite.)

20.03.14 – RULES GOVERNING GRAZING, FARMING, **AND** CONSERVATION, ~~NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES~~

000. LEGAL AUTHORITY.

These rules are promulgated by the ~~Idaho State Board of Land Commissioners~~ pursuant to Section 58-104, Idaho Code. (3-18-22)( )

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ These rules are titled IDAPA 20.03.14, “Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases.” (3-18-22)

~~02. Scope.~~ These rules constitute the Department’s administrative procedures for leasing of state endowment trust land (endowment lands) for grazing, farming, conservation, ~~noncommercial recreation, communication sites~~ and other uses that are treated similarly under ~~the provisions of~~ Section 58-307, Idaho Code, regarding a lease term for no longer than twenty (20) years, and under ~~the provisions of~~ Section 58-310, Idaho Code regarding lease auctions. These rules are to be construed in a manner consistent with the duties and responsibilities of the ~~Idaho State Board of Land Commissioners~~ as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (3-18-22)( )

002. ADMINISTRATIVE APPEALS.

01. **Board Appeal.** All decisions of the Director are appealable to the Board. An aggrieved party ~~desiring to make such an~~ may appeal ~~must, within twenty (20) days after receiving by filing with the Director a written notice of the final decision being appealed or in case of a conflict auction within twenty (20) days after the auction is held, file with the Director a written notice~~ of appeal setting forth the basis for the appeal within twenty (20) days of: ( )

a. Receiving notice of the Board’s decision, which is being appealed or; ( )

b. ~~–The Board has the discretion to accept or reject any timely appeal. In the event that the Board rejects hearing the appeal, the decision of the Director will be deemed final.~~ The date that the conflict auction is held. (3-18-22)( )

02. **Board Decision.** In the event the Board hears an appeal, it will do so at the earliest practical time or, in its discretion, appoint a Board sub-committee or a hearing officer to hear the appeal. The ~~Board sub-committee or~~ hearing officer will make findings and conclusions which the Board accepts, rejects or modifies. The decision of the Board after a hearing, or ~~upon a ruling concerning the Board sub-committee or~~ hearing officer’s findings and conclusions, are final. (3-18-22)( )

03. **Judicial Review.** Judicial review of the final decision of the Board is in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-18-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Amortization.** The purchase of Department authorized, lessee installed, lease improvements by

the Department through allowance of credit to the lessee's annual lease payments. (3-18-22)( )

**02. Animal Unit Month (AUM).** The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM. (3-18-22)

**03. Assignment.** The Department approved transfer of all, or a portion of, a lessee's right to another ~~p~~Person wherein the second ~~p~~Person assumes the ~~l~~Lease contract with the Department. (3-18-22)( )

**04. Board.** The Idaho State Board of Land Commissioners, ~~or such representatives as may be designated~~ its designee. (3-18-22)( )

**05. Conflict Application.** An application to ~~l~~Lease ~~state~~ endowment ~~trust~~ land for grazing, farming, ~~or~~ conservation, ~~noncommercial recreation or communication site~~ use when one (1) or more applications have been submitted for the same parcel of ~~state~~ endowment ~~trust~~ land and for the same or an incompatible use. (3-18-22)( )

**06. Department.** The Idaho Department of Lands. (3-18-22)

**07. Director.** The Director of the Idaho Department of Lands, ~~or such representative as may be designated by the Director~~ their designee. (3-18-22)( )

**08. Extension.** An approved delay in the due date of the rental owed on a farming ~~l~~Lease without risk of loss of the ~~l~~Lease. (3-18-22)( )

**09. Improvement Credit Valuation.** The process or processes of estimating the value of Department authorized improvements associated with a ~~l~~Lease, as defined in Section 102. (3-18-22)( )

**10. Lease.** A written agreement between the Department and a ~~p~~Person containing the terms and conditions upon which the ~~p~~Person will be authorized to use ~~state~~ endowment ~~trust~~ land. (3-18-22)( )

**11. Herd Stock.** Livestock leased or managed, but not owned, by the lessee. (3-18-22)

~~**12. Lease Application.** An application to lease ~~state~~ endowment ~~trust~~ land for grazing, farming, conservation, noncommercial recreation, or communication site purposes. (3-18-22)~~

~~**13. Manageable Unit.** A unit of ~~state~~ endowment ~~trust~~ land designated by the Department, geographically configured and sufficiently large to achieve the proposed use. (3-18-22)( )~~

~~**14. Management Plan.** The signed ~~state~~ endowment ~~trust~~ land ~~l~~Lease for grazing, farming, and/or conservation, and any referenced attachments such as annual operating plans or federal allotment management plans; ~~is considered the management plan~~. (3-18-22)( )~~

~~**15. Mortgage Agreement.** Department authorization for the lessee to obtain a mortgage on a ~~state~~ endowment ~~trust~~ land lease. (3-18-22)~~

**16. Person.** An individual, partnership, limited liability company, association, trust, unincorporated organization, ~~corporation~~ or ~~any~~ other legal entity qualified to do business in the state of Idaho and any federal, state, county, or local unit of government. (3-18-22)( )

~~**17. Proposed Management Plan.** A document written and submitted by the lease applicant detailing the management objectives and strategies associated with their proposed activity. (3-18-22)~~

**18. Sublease.** An agreement in which the ~~state~~ endowment ~~trust~~ land lease holder lessee conveys the right of use and occupancy of the ~~property~~ leased land to another party on a temporary basis. (3-18-22)( )



**011. -- 018. (RESERVED)**

**019. LESSEE MAILING ADDRESS.**

Unless otherwise notified by the lessee, the Department will send all lease correspondence ~~from the Department will be sent~~ to the name and address as it appears on the lease application. It is the lessee's duty to notify the Department, in writing, of any change in mailing address. (3-18-22)( )

**020. APPLICATIONS AND PROCESSING.**

**01. Eligible Applicant.** Any person legally competent to contract may submit an application to lease state endowment trust land provided such person is not then in default of any contract with the Department ~~of Lands~~; provided further, that the Department may, in its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof. (3-18-22)( )

**02. Application Process.** ~~All lease applications must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria:~~ (3-18-22)( )

**a. Applications. All applications must:** ( )

**i. Be submitted to the Department on the appropriate Department form:** ( )

**ii. Be signed by the applicant:** ( )

~~iii. Non-refundable Fee. Each application for a lease must be~~ accompanied by a non-refundable application fee in the amount specified by the Board. (3-18-22)( )

~~biv. Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease is as established by the Department for the year the existing lease expires. Applications to lease unleased state endowment trust land may be submitted at any time, or at such time as designated by the Department. Be accompanied with a Proposed Management Plan:~~ (3-18-22)( )

~~ev. Proposed Management Plan. All applicants for state grazing, farming and conservation leases must submit a proposed management plan with their application. Where~~ If the current lessee is an applicant, the Department will recognize the existing Management Plan, as described by the existing lease provisions, as the proposed Management Plan required to complete the lease application. The Department may require amendments to the proposed Management Plan in accordance with Subsections 020.02.e. and 020.02.f. (3-18-22)( )

vi. Include a legal description of the endowment land sought to be leased. The Department may require an amendment of the legal description of lands identified in a lease application to ensure the parcel is a Manageable Unit or for any other reason the Department deems appropriate. If the applicant fails to provide an amended application, referencing a Manageable Unit as designated by the Department, the application is considered invalid. ( )

~~d. Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application is considered invalid.~~ (3-18-22)

**eb. Nonconflicted Applications.** (3-18-22)

**i.** If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased ~~state endowment trust~~ land, a new lease will be issued. (3-18-22)( )

**ii.** If the current lessee is the only applicant and the Department has concerns with the lessee's current

management of the ~~state leased~~ endowment ~~trust~~ lands, the Department will request in writing a new ~~p~~Proposed ~~m~~Management ~~p~~Plan and meet with the current lessee to develop terms and conditions of a proposed lease. (3-18-22)(    )

~~f~~c. Conflicted Applications. (3-18-22)

i. All applicants submitting ~~e~~Conflict ~~a~~Applications must meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's ~~p~~Proposed ~~m~~Management ~~p~~Plan. (3-18-22)(    )

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (3-18-22)

(1) The applicant's proposed use and the compatibility of that use of the ~~state~~ endowment ~~trust~~ land with preserving its long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential. (3-18-22)(    )

(2) The applicant's legal access to and/or control of land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. (3-18-22)

(3) The applicant's previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience. (3-18-22)

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. (3-18-22)

(5) Mitigation measures designed to address trust management concerns such as: (3-18-22)

(a) Construction of improvements at lessee's expense. (3-18-22)

(b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. (3-18-22)

(c) Bonding to ensure removal of any improvements installed for the lessee's benefit only and which would impair the future utility and leasing income potential of the ~~state~~ endowment ~~trust~~ land. (3-18-22)(    )

(d) Bonding to ensure future rental payments due under the ~~H~~Lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources. (3-18-22)(    )

(6) Any other factors the Department deems relevant to the management of the ~~state~~ endowment ~~trust~~ land for the proposed use. (3-18-22)(    )

~~g~~iii. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the ~~state~~ endowment ~~trust~~ land. If the applicant does not accept in writing the lease as proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the ~~Land~~ Board. If the appeal is denied, the applicant may continue with the auction process by accepting the lease terms and conditions initially offered by the Department. No auction may be held until the ~~Land~~ Board resolves any such appeal. (3-18-22)(    )

**03. Expiring Leases.** ~~The Department will mail H~~lease applications ~~will be mailed by the Department~~ to all holders of expiring ~~H~~leases ~~no less than at least~~ thirty (30) days prior to the application deadline. ~~Signed applications and the application fee must be returned to the Department by the established deadline or postmarked no~~

~~later than midnight of that date. It is the lessee's responsibility to ensure applications are delivered or postmarked by the deadline.~~ It is the lessee's responsibility to ensure that the signed applications and associated fees are delivered to the Department by the established deadline. (3-18-22)(    )

**04. Rental Deposit.** (3-18-22)

a. Existing Lessee. If the existing lessee is the sole applicant, the lessee may submit the rental deposit at the normal due date. If a ~~e~~Conflict ~~a~~Application is also filed on the expiring ~~L~~Lease and the existing lessee is awarded the lease by the ~~L~~Land Board, the lessee must deposit, with the Department, the estimated first year's rental for the ~~L~~Lease at the time the ~~L~~Lease is submitted to the Department with lessee's signature. (3-18-22)(    )

b. New Applicants. (3-18-22)

i. Expiring Lease. New applicants for expiring ~~L~~Lleases must ~~submit~~ pay the estimated first year's rental to the Department at the time ~~of the application's~~ is submission ~~tted~~. (3-18-22)(    )

ii. Unleased ~~State~~ Endowment ~~Trust~~ Land. All applicants for unleased ~~state~~ endowment ~~trust~~ land are deemed new applicants. If ~~an applicant for unleased state endowment trust land is~~ a new applicant is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. (3-18-22)(    )

**021. LEASE LENGTH OF LEASE.**

The Department may issue a ~~L~~Lease for any period of time up to the maximum term provided by law. (3-18-22)(    )

**022. -- 029. (RESERVED)**

**030. CHANGE IN LAND USE.**

The Director may change the use of any ~~state~~ endowment ~~trust~~ land, in whole or in part, for other uses that will better achieve the objectives of the Board. (3-18-22)(    )

**031. -- 039. (RESERVED)**

**040. RENTAL.**

01. **Rental Rates.** The Board determines the methodology used to calculate rental rates ~~is determined by the Board.~~ (3-18-22)(    )

02. **Special Uses.** The Department determines Fees for special uses requested by the lessee and approved by the Department ~~are determined by the Department.~~ (3-18-22)(    )

03. **Rental Due Date.** Lease rentals are due in accordance with the terms of the ~~L~~Lease. (3-18-22)(    )

**041. CHANGE OF RENTAL.**

The Department reserves the right to increase the annual lease rental. Notice of any increase will be provided in writing to the lessee at least one hundred eighty (180) days prior to the lease rental due date. (3-18-22)

**042. LATE PAYMENTS.**

Rental not paid by the due date is considered late. Late payment charges from the due date forward are specified in the ~~L~~Lease. (3-18-22)(    )

**043. -- 048. (RESERVED)**

**049. BREACH.**

**01. Non-Compliance.** A lessee is in breach if the lessee's use is not in compliance with the Lease's provisions ~~of the lease~~. (3-18-22)(    )

**02. Damages for Breach.** A lessee is responsible for all damages resulting from breach and for other damages, as provided by law. (3-18-22)(    )

**050. LEASE CANCELLATION.**

Leases may be canceled by the Director for the following reasons: (3-18-22)

**01. Non-Compliance.** If the lessee is not complying with the Lease provisions or if resource damage attributable to the lessee's management is occurring to ~~state leased~~ endowment ~~trust~~ land ~~within a lease~~, the lessee will be provided written notification of the violation by regular and certified mail. The letter will set forth the reasons for the Department's cancellation of the Lease and provide the lessee thirty (30) days' notice of the cancellation. (3-18-22)(    )

**02. Change in Land Use.** ~~A lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department if the~~ state endowment trust lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing Lease, then a Lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department. In the event of early cancellation due to a change in land use, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)(    )

**03. Land Sale.** The Department reserves the right to sell ~~state~~ endowment ~~trust~~ lands covered under the Lease. The lessee will be notified that the ~~state~~ endowment ~~trust~~ lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)(    )

**04. Mutual Agreement.** Leases may be canceled by mutual agreement between the Department and the lessee. (3-18-22)

**051. LEASE ADJUSTMENTS.**

**01. Department ~~Required~~ Initiated.** The Department may make adjustments to the Lease for resource protection or resource improvement. (3-18-22)(    )

**02. Lessee Requested.** Lessee requested changes in Lease conditions must be submitted in writing and ~~must~~ receive written approval from the Department before implementation. (3-18-22)(    )

**052. EXTENSIONS OF ANNUAL FARMING LEASE PAYMENT.**

**01. Farming Lease Extensions.** An eExtension of the annual lease payment may be approved for farming leases only. Each Lease is limited to no more than two (2) successive or five (5) total eExtensions during any ten (10) year lease period. Requests for eExtensions must be submitted in writing and ~~must~~ include the extension fee, which is determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (3-18-22)(    )

**02. Liens.** When an eExtension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by ~~Idaho Code law~~. (3-18-22)(    )

**03. Due Date.** Rental plus interest at a rate established by the Board will be due ~~not later than~~ by November 1 of the year the eExtension is granted. (3-18-22)(    )

**053. -- 059. (RESERVED)**

**060. FEES.**

Fees for Lease administration ~~will be periodically set~~ are set by the Board and must be paid in full before a

transaction can occur. All Lease administration fees are non refundable. The Board ~~has the authority to~~ may set fees related to administration of the leasing process ~~including, but not limited to the following such as:~~ lease applications; full Lease assignment; partial Lease assignment; ~~mortgage agreement;~~ subleases; late rental payment; minimum lease fee; and lease payment extension request. (3-18-22)(    )

**061. -- 069. (RESERVED)**

**070. SUBLEASING.**

~~A lessee may not authorize another person to use state endowment trust land without prior written approval from the Department.~~ The lessee must receive the Department's written approval before authorizing another Person to use leased endowment land. The lessee must provide the name and address of sublessee, purpose of sublease, and a copy of the proposed sublease agreement. Lessee controlled herd stock does not require sublease approval. (3-18-22)(    )

**071. ASSIGNMENTS.**

~~The lessee may not assign a lease, or any part thereof, without prior written approval of the Department.~~ The lessee must complete a Department assignment form and receive the Department's written approval of that form before assigning a lease form. (3-18-22)(    )

**072. MORTGAGE AGREEMENTS.**

~~The lessee may not enter into a mortgage agreement that involves state endowment trust land lease without prior written approval of the Department. The lessee must submit the required filing fee. The term of a mortgage agreement may not exceed the lease term.~~ (3-18-22)

**073. -- 079. (RESERVED)**

**080. MANAGEMENT PLANS.**

**01. Federal Plan.** When ~~state~~ endowment ~~trust~~ land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, the ~~m~~Management plan. (3-18-22)(    )

**02. Modification of Plan.** The Department may review and modify any ~~grazing m~~Management plan upon changes in conditions, laws, or regulations, provided that the Department will give the lessee at least thirty (30) day's notice of any ~~such~~ modification's ~~prior to the~~ effective date ~~thereof~~. Modifications mutually agreeable to both the Department and lessee may be made at any time and may be initiated ~~by~~ at the lessee's request. (3-18-22)(    )

**081. -- 089. (RESERVED)**

**090. TRESPASS.**

**01. Loss or Waste.** The lessee must use the ~~property within the~~ leased lands in ~~such a~~ manner ~~as that~~ will best protect the state of Idaho against loss or waste. (    )

**02. Trespass.** Unauthorized activities occurring on ~~state~~ endowment ~~trust~~ land are considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (3-18-22)(    )

**023. Civil Action by Lessee.** The lessee is encouraged to take civil action against owners of trespass livestock on ~~state~~ endowment ~~trust~~ lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (3-18-22)(    )

**034. Continuing Trespass.** When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-18-22)

**045. Trespass Claims.** Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-18-22)

091. -- 099. (RESERVED)

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. **Prior Written Approval.** The lessee must secure the Department's written approval ~~of the Department~~ prior to constructing any improvements or buildings, or clearing any ~~state~~ endowment trust land. Failure to secure such approval eliminates any right to an improvement credit and may, at the Department's discretion, be deemed a material breach of the Lease and be cause for cancellation. Any arrangement for cost sharing or improvement crediting will be identified in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. (3-18-22)(    )

02. **Maintenance.** ~~All~~ The lessee must maintain authorized improvements ~~must be maintained in so that they are in a functional condition by the lessee.~~ The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on lands acquired from the federal government remain in effect until amended by the parties involved. If maintenance is not being accomplished, the Department will provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days of the letter being sent, the Department may contract repairs and add the amount to the annual rental. (3-18-22)(    )

03. **Bond.** The Department may, as it deems necessary, require the lessee to furnish a bond prior to constructing improvements ~~as deemed necessary~~ to protect endowment assets or to ensure performance under the Lease. (3-18-22)(    )

101. IMPROVEMENT CREDIT.

01. **Sale or Auction.** In the event of sale of the ~~state~~ leased endowment ~~trust~~ land ~~covered under the lease~~ or if the existing lessee is not the successful bidder at the auction of the lease, the creditable value of the authorized improvements, as determined by the Department, will be paid to the former lessee by the Department or the purchaser where a sale occurs or by the successful bidder where a new lease is issued. (3-18-22)(    )

02. **Exchange.** In the event of exchange of the ~~state~~ leased endowment ~~trust~~ land ~~covered under the lease~~, the creditable value of authorized improvements, as determined by the Department, will be paid to the former lessee by the acquiring party, if other than the existing lessee. (3-18-22)(    )

03. **Crediting.** Improvement credit may be allowed when the Department determines that such credit would further the objective of maximizing long-term financial return to trust beneficiaries and if the improvements are: (3-18-22)(    )

- a. Authorized in writing by the Department or lacking written authorization, but in existence prior to 1970; (3-18-22)
- b. Not expressly permitted "for lessee's benefit only"; and (3-18-22)
- c. Maintained during the Lease term. (3-18-22)(    )

04. **Value Only to Lessee.** Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation will be made in the permit, "For lessee's benefit only." If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (3-18-22)

05. **Maintenance Costs.** Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (3-18-22)

06. **Unauthorized Improvements.** No credit will be allowed for unauthorized improvements. At the

discretion of the Department, the lessee may be required to remove unauthorized improvements. (3-18-22)

**07. Cost Sharing.** Federal or state cost-share amounts are not included in the allowable improvement credit. (3-18-22)

**102. VALUATION OF IMPROVEMENTS.**

Credited improvements will be valued ~~on the basis of~~ based on replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement ~~with~~ with amortization or cost limitations identified by the Department will be considered in determining a final value. (3-18-22)(    )

**01. Applicant Review of Department Improvement Credit Valuation.** All applicants for a conflicted lease will be provided a copy of the Department's improvement credit valuation for review and a notice of objection form. Any applicant objecting to the appraisal will have twenty-one (21) days from the date of the valuation mailing to submit the notice of objection form to the Department. If no objections are received during the twenty-one (21) day review period, the lease auction will be scheduled and will proceed using the Department's improvement credit valuation. (3-18-22)

**02. Failure to File a Timely Notice of Objection.** Failure to submit a notice of objection within the specified twenty-one (21) day period will preclude any applicant from further administrative remedies ~~and the auction will proceed using the Department's improvement credit valuation.~~ (3-18-22)(    )

**03. Notice of Objection.** Any applicant objecting to the Department improvement credit valuation must submit ~~a complete and timely notice of objection form, and payment of~~ with the completed, and timely, notice of objection for a payment of two thousand five hundred dollars (\$2,500) or ten percent (10%) of the total Department improvement credit valuation whichever is greater, to pay for the services of an independent third party. Within five (5) days of receipt of the notice of objection, the Department will notify all applicants in writing that an objection has been received and provide them with a list of certified appraisers. (3-18-22)(    )

**04. Selection of an Independent Third Party.** The applicants will have twenty-one (21) days from the date of the Department's notification of an objection to select by mutual agreement, one individual from the list of certified appraisers to serve as an independent third party. If the applicants cannot agree on an independent third party within the twenty-one (21) day time period, the Department will randomly select one individual from the list to serve as the independent third party. (3-18-22)

**05. Duties of the Independent Third Party.** The independent third party will review the Department improvement credit valuation and alternate valuations provided by the applicants. ~~Following this review, the independent third party will select from among the Department valuation and alternate valuations, the one value that~~ (s)he from those determines ~~is to be~~ is to be the most accurate value of the improvements, ~~and will.~~ The independent third party will notify the Department of this value in writing. (3-18-22)(    )

**06. Notification of Final Improvement Value.** Within five (5) days of receiving the independent third party's final determination of improvement credit value, the Department will mail ~~to~~ each applicant an auction notice that will reference the independent third party's determined value of improvements. The determination by the independent third party of the improvement value will be deemed final, and the appraised value of improvements will not be allowed as a basis for appeal of the auction. (3-18-22)(    )

**103. -- 104. (RESERVED)**

**105. CONFLICT AUCTIONS.**

**01. Two or More Applicants.** When two (2) or more eligible applicants apply to lease the same ~~state~~ state endowment ~~trust~~ land for grazing, farming, or conservation, ~~nonecommercial recreation, or communication site~~ purposes and the Department determines the proposed uses are not compatible, the Department will hold an auction. (3-18-22)(    )

**02. Minimum Bid.** Bidding begins at two hundred fifty dollars (\$250) or the cost of preparing any

required ~~+~~Improvement Credit ~~+~~Valuation in connection with the expiring ~~+~~Lease, whichever is greater. (3-18-22)(    )

**03. Auction Bidding.** Each applicant who appears in person or by proxy at the time and place so designated in ~~said~~ the auction notice and bids for the lease is deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction. (3-18-22)(    )

**04. Withdrawal Prior to or Failure to Participate in an Auction.** Applicants who either withdraw their applications after accepting the Department offered lease ~~per Subsection 020.02 of this rule~~ and ~~prior to~~ before the auction that results in no need to schedule an auction or cancellation of a scheduled auction; or applicants who fail to participate at the auction by not submitting a bid which results in only one (1) participant at the scheduled auction, forfeit an amount equal to the ~~lesser~~ greater of the following: (3-18-22)(    )

a. The Department's cost of making any required improvement credit valuation; (3-18-22)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (3-18-22)

c. For conflict applicants, the rental deposit made. (3-18-22)

**05. High Bid Deposit.** The high bidder ~~is required to~~ must submit payment in the amount of the high bid at the conclusion of the auction. (3-18-22)(    )

**06. Auction Procedures.** The Department will prescribe the procedures for conducting conflicted lease auctions. (3-18-22)

**07. Withdrawal After Auction.** (3-18-22)

a. If the high bidder withdraws or refuses to accept the lease, the Department retains the high bid payment ~~will be retained by the Department.~~ (3-18-22)(    )

i. If the auction involved only two (2) participants, the second high bidder will be awarded the lease. (3-18-22)

ii. If the auction involved more than two (2) participants, the lease will be reaucted. (3-18-22)

b. If an auction bidder, other than the high bidder, withdraws a bid before ~~Land Board review and~~ action on the auction results, no adjustment will be made in the payment deposited by the high bidder. (3-18-22)(    )

**106. BOARD REVIEW OF AUCTION.**

The Board will review the proposed leases and auction results and make the determination required under Section 58-310, Idaho Code, consistent with its obligations under Article ~~IX~~ 9, Section 8 of the Idaho Constitution and all relevant statutory provisions. (3-18-22)(    )

**107. -- 110. (RESERVED)**

**111. NOXIOUS WEED CONTROL.**

**01. Weed Control.** The lessee must cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on ~~state~~ endowment ~~trust~~ land. The lessee will take measures to control noxious weeds on the leased ~~state~~ endowment ~~trust~~ land in accordance with Title 22, Chapter 24, Idaho Code. (3-18-22)(    )

**02. Responsibility.** The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state ~~grazing~~ lands will be shared by the lessee and Department, with the Department's share



subject to funds appropriated for that purpose.

(3-18-22)(    )

**112. LIVESTOCK QUARANTINE.**

**01. Cooperation.** The lessee must cooperate with the state ~~/~~ and federal agency responsible for the control of livestock diseases.

(3-18-22)(    )

**02. Non-Compliance.** Non-compliance with state ~~/~~ or federal regulations will be considered a Lease violation and may result in cancellation of the Lease.

(3-18-22)(    )

**113. ANIMAL DAMAGE CONTROL.**

The lessee may request the services of USDA Animal and Plant and Health Inspection Service-Wildlife Services to remove animals causing crop damage or harassing/killing the lessee's livestock. The Department is not liable for any consequence from any animal control actions.

(3-18-22)

~~**114. LIABILITY (INDEMNITY).**~~

~~The lessee must indemnify and hold harmless the state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased state endowment trust land, or the occupation of the leased parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission.~~

~~(3-18-22)~~

**114. (RESERVED)**

**115. RULES AND LAWS OF THE STATE.**

The lessee must comply with all applicable rules, regulations and laws of the state of Idaho and the United States insofar as they affect the use of the state endowment trust lands described in the lease.

(3-18-22)

**116. -- 999. (RESERVED)**

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.15 – RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS

#### DOCKET NO. 20-0315-2401 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17th, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

**FEE SUMMARY:** No changes have been made to any fees in this proposed rule. The application fee (\$250) and assignment fee (\$150) remain the same. Rule language regarding late payment was removed to allow the Department to be consistent with statute as to how late fees are assessed.

**FISCAL IMPACT:** There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024, Idaho Administrative Bulletin, [Vol. 24-3, pages 18-19](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance with technical questions concerning the proposed rule, contact Mike Murphy at (208) 334-0290 or [mmurphy@idl.idaho.gov](mailto:mmurphy@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Mike Murphy, Minerals Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720 Boise, Idaho 83720-0050  
Phone: (208)334-0290  
Fax: (208)334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0315-2401**  
**(ZBR Chapter Rewrite.)**

**20.03.15 – RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS**

**000. LEGAL AUTHORITY.**

This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, ~~and~~ 58-127, Idaho Code; ~~and~~ Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 16, Idaho Code; and Title 67, Chapter 52, Idaho Code. (3-18-22)(    )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. These rules are titled IDAPA 20.03.15, “Rules Governing Geothermal Leasing on Idaho State Lands.” (3-18-22)~~

~~02. Scope. These rules apply to the exploration and extraction of any ~~and all~~ ~~g~~Geothermal ~~r~~Resources situated in state-owned ~~m~~Mineral ~~l~~Lands. (3-18-22)(    )~~

~~03. Other Laws. In addition to these rules, the Lessee must comply with all applicable federal, state and local laws, rules and regulations. ~~The violation of~~ ~~Violating~~ any applicable law, rule, or regulation constitutes a breach of any ~~l~~Lease issued in accordance with these rules. (3-18-22)(    )~~

**002. ADMINISTRATIVE APPEALS.**

Any ~~p~~Person aggrieved by any final agency action will be entitled to judicial review pursuant to ~~the provisions of~~ Title 67, Chapter 52, Idaho Code; ~~;~~ IDAPA 20.01.01; ~~;~~ and Title 47, Chapter 16, Idaho Code. (3-18-22)(    )

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~The terms Mineral Lands, Mineral Rights, and Mineral are defined in Section 47-701, Idaho Code. The term Casual Exploration and Motorized Exploration are defined in Section 47-703A, Idaho Code. The term Geothermal Resource is defined in Section 47-1602, Idaho Code. In addition to the identified definitions in Idaho Code, the following definitions apply to these rules: (    )~~

**01. Associated By-Products or By-Product:** (3-18-22)

~~a. Any ~~m~~Mineral(s) or minerals (exclusive of excluding oil, hydrocarbon gas, ~~any other hydrocarbon compound~~, and helium) that are found in solution or developed in association with ~~g~~Geothermal ~~r~~Resources; or (3-18-22)(    )~~

~~b. Demineralized or mineralized water ~~found or developed in association with Geothermal Resources.~~ (3-18-22)(    )~~

**02. Board.** The Idaho State Board of Land Commissioners or its designee. (3-18-22)

~~03. ~~Casual Exploration.~~ Casual exploration means entry and/or exploration that does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. (3-18-22)~~

**043. Completion.** A well is considered to be completed thirty (30) days after drilling operations have ceased and the drill rig is removed from the premises or thirty (30) days after the initial production or injection test has been completed, whichever occurs ~~last~~ first. (3-18-22)(    )

**054. Department.** The Idaho Department of Lands ~~or its designee~~. (3-18-22)(    )

**065. Director.** The ~~d~~Director of the Idaho Department of Lands or ~~his~~ their designee. (3-18-22)(    )

**07. Direct Use.** ~~The use of geothermal resources for direct applications, including, but not limited to, road surface heating, resorts, hot spring bathing and spas, space heating of buildings, recreation, greenhouse warming, aquaculture, or industrial applications where geothermal heat is used in place of other energy inputs.~~  
(3-18-22)

**086. Electrical Power Generation.** The use of ~~g~~Geothermal ~~r~~Resources to either directly generate electricity or to heat a secondary fluid and use it to generate electricity. (3-18-22)(    )

**097. Field.** A geographic area overlying a ~~geothermal system~~ geologic setting with ~~one (1) or more~~ g~~Geothermal reservoirs~~ Resource(s) or pool(s), including any porous, permeable geologic layer, that may be formed along one (1) fault or fracture, or a series of connected faults or fractures. (3-18-22)(    )

**10. Geothermal Resources.** ~~The natural heat energy of the earth, the energy, in whatever form, that may be found in any position and at any depth below the surface of the earth present in, resulting from, or created by, or that may be extracted from such natural heat, and all minerals in solution or other products obtained from the material medium of any geothermal resource. When used without restriction, it includes associated by products.~~  
(3-18-22)

**1108. Lease.** ~~A lease covering the geothermal resources and associated by products in state lands~~ written agreement between the Department and a Person containing the terms and conditions upon which the Person will be authorized to use State Lands. (3-18-22)(    )

**1209. Lessee.** The ~~p~~Person to whom a geothermal ~~H~~Lease has been issued and ~~his~~ their successor in interest or assignee. It also means any agent of the Lessee or an ~~O~~Operator holding authority by or through the Lessee. (3-18-22)(    )

**130. Market Value.** The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property or commodity should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-18-22)

**14. Motorized Earth Moving Equipment.** ~~Backhoes, bulldozers, front loaders, trenchers, core drills, drill rigs, power augers, and other similar equipment.~~  
(3-18-22)

**151. Navigable Water Courses.** ~~The state-owned beds of active lakes, rivers, and streams that do not include formerly submerged lands where the state retains ownership.~~ excluding formerly submerged public lands. (3-18-22)(    )

**162. Operator.** The ~~p~~Person having control or management of operations on the leased lands or a portion thereof. The ~~O~~Operator may be the Lessee, designated operator, or agent of the Lessee, or holder of rights under an approved operating agreement. (3-18-22)(    )

**173. Overriding Royalty.** An interest in the ~~g~~Geothermal ~~r~~Resource produced at the surface free of any cost of production. It is a royalty in addition to the royalty reserved to the ~~s~~State. (3-18-22)(    )

**184. Person.** ~~Any natural person, corporation, association, partnership, or other entity recognized and authorized to do business in Idaho, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives of any kind, and includes any government or any political subdivision of any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders~~ Any individual, corporation,

partnership, limited liability company, association, trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)(\_\_\_\_)

**195. Record Title.** The publicly recorded ~~L~~ease that ~~is the~~ evidences ~~of the~~ right that a ~~p~~Person has to the possession of the leased property. (3-18-22)(\_\_\_\_)

**2016. Reservoir or Pool.** A porous, permeable geologic layer containing ~~g~~Geothermal ~~r~~Resources. (3-18-22)(\_\_\_\_)

**2417. Shut In.** To close the valves at the wellhead so that the well stops flowing or producing. Also describes a well on which the valves have been closed. (3-18-22)

**2218. State Lands.** Without limitation, lands in which the title to the ~~m~~Mineral ~~r~~Rights are owned by the state of Idaho and are under the jurisdiction and control of the Board or ~~under the jurisdiction and control of~~ any other state body or agency, having been obtained from any source and by any means whatsoever, including the beds and banks of navigable waters of the state of Idaho. (3-18-22)(\_\_\_\_)

**2319. Waste.** Any physical loss of ~~g~~Geothermal ~~r~~Resources including, ~~but not limited to:~~ (3-18-22)(\_\_\_\_)

**a.** Underground loss of ~~g~~Geothermal ~~r~~Resources resulting from inefficient, excessive, or improper use, or dissipation of geothermal energy, or of any ~~g~~Geothermal ~~r~~Resource ~~p~~Pool, ~~r~~Reservoir, or other source; ~~or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner that results, or tends to result in, reducing the quantity of geothermal energy to be recovered from any geothermal area in the state;~~ (3-18-22)(\_\_\_\_)

**b.** ~~The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of geothermal energy; the escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development or production of a well.~~ Underground loss of Geothermal Resources resulting from the locating, spacing, constructing, equipping, operating, or producing of any well in a manner which results in inefficient, excessive or improper use or dissipation of the quantity of geothermal energy to be recovered; (3-18-22)(\_\_\_\_)

**c.** The inefficient above-ground transporting or storage of geothermal energy; (\_\_\_\_)

**d.** The inefficient above-ground locating, spacing, equipping, operating, or producing of any well, including injection well, in a manner causing unnecessary or excessive surface loss or destruction of geothermal energy; or (\_\_\_\_)

**e.** The escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development of or production from a well. (\_\_\_\_)

**011. ABBREVIATIONS.**

**01. IDWR.** Idaho Department of Water Resources. (3-18-22)

**012. -- 019. (RESERVED)**

**020. QUALIFIED APPLICANTS AND LESSEES.**

Any ~~p~~Person legally competent to contract may submit an application to lease ~~s~~State ~~l~~and provided such ~~p~~Person ~~is not then in default of~~ does not have any contract in default with the state of Idaho or any department or agency thereof. (3-18-22)(\_\_\_\_)

**021. LEASE AWARD THROUGH AUCTION.**

If more than one (1) application is received for geothermal development on the same parcel of land, a lease auction will be held. (3-18-22)

022. -- 029. (RESERVED)

030. ~~TERM~~LEASE PROVISIONS.

~~01. Lease Term.~~ All leases may be for a term of up to forty-nine (49) years from the effective date of the lease. (3-18-22)(\_\_\_\_)

~~021. Diligence in Utilization.~~ Lessee will use due diligence to market or utilize ~~g~~Geothermal ~~r~~Resources in paying quantities. If leased land is capable of producing ~~g~~Geothermal ~~r~~Resources in paying quantities, but production is shut-in, the ~~l~~Lease will continue in force upon payment of rentals for the duration of the ~~l~~Lease term or two (2) years after shut-in, whichever is shorter. If the Department determines that the Lessee is proceeding diligently to acquire a contract to sell or to utilize the production or is progressing with installations needed for production, the ~~l~~Lease may continue in force for one (1) additional year if rental payments are kept current. The Department will continue to review a shut-in ~~l~~Lease every year until production and payment of royalties takes place, or the ~~l~~Lease is terminated for Lessee's lack of due diligence or surrendered by the Lessee. (3-18-22)(\_\_\_\_)

~~032. Yearly Reporting.~~ A report of all exploration, development, and production activities must be submitted to the Department at the close of each ~~l~~Lease year. (3-18-22)(\_\_\_\_)

031. -- 034. (RESERVED)

035. RENTALS.

~~01. Advance Annual Rental.~~ Lessee will pay ~~to~~ the Department, in advance, ~~each year an~~ yearly annual rental. The annual rental for the first year of the Lease's term will be due and payable and will be received by the Department, paid to the Department within thirty (30) days of the date of notice of Lease approval or award. ~~Together with the payment, the Lessee must submit~~ a lease agreement that it executed ~~by Lessee within thirty (30) days of the date of notice of approval or award.~~ Second year and subsequent rental payments must be received by the Department ~~on or before the anniversary date of the lease~~ before the Lease's anniversary date. (3-18-22)(\_\_\_\_)

~~02. Amount.~~ Annual rentals will be set by the Board through competitive bidding, negotiation, fixed amounts, formulas, or some other method of valuation that a prudent investor might reasonably apply to establish such rental amounts. (3-18-22)

036. ROYALTIES.

~~01. Royalty Payments.~~ The Lessee will ~~cause to be paid to~~ pay the Department royalties on the value of geothermal production from the leased ~~premises~~ lands. The royalty rate will be established ~~by the Board based on the market value of the geothermal resources produced from the lands under lease. The royalties specified in geothermal leases will be fixed in any manner by the Board, including but not limited to competitive bidding, negotiation, fixed amounts, or formulas~~ per Section 47-1605(2), Idaho Code. Royalty rates may be adjusted ~~throughout the term of the lease in order~~ the Lease's term to keep pace with ~~m~~Market ~~v~~Values. When ~~l~~Leases are issued, the following guidelines will be used for royalty rates not subject to competitive bidding: (3-18-22)(\_\_\_\_)

~~a.~~ A royalty of ~~between at least~~ five percent (5%) ~~and twenty percent (20%)~~ of the amount or value of ~~g~~Geothermal ~~r~~Resources, or any other form of heat or energy excluding ~~e~~Electrical ~~p~~Power ~~g~~Generation, derived from production under the ~~l~~Lease and sold or utilized by the Lessee or reasonably susceptible to sale or utilization by the Lessee; (3-18-22)(\_\_\_\_)

~~b.~~ A royalty of ~~between at least~~ two percent (2%) ~~and fifteen percent (15%)~~ of the amount or value of any ~~a~~Associated ~~b~~By-~~p~~Product derived from production under the ~~l~~Lease and sold or utilized or reasonably susceptible of sale or utilization by the Lessee, including commercially demineralized water, ~~and~~; (3-18-22)(\_\_\_\_)

~~c.~~ A royalty of ~~between at least~~ two percent (2%) ~~and five percent (5%)~~ of gross receipts for sale of electrical power. (3-18-22)(\_\_\_\_)

**02. Calculation of Value.** The value of geothermal production from the leased ~~premises lands~~ for the purpose of computing royalties is based on a total of the following: (3-18-22)(\_\_\_\_)

a. The total consideration accruing to the Lessee from the sale of ~~g~~Geothermal ~~r~~Resources to another party in an arms-length transaction; and (3-18-22)(\_\_\_\_)

b. The value of the end product attributable to the ~~g~~Geothermal ~~r~~Resource produced from a particular ~~l~~ease where ~~g~~Geothermal ~~r~~Resources are not sold by the Lessee before being utilized, but are instead directly used in manufacturing power production, or other industrial activity; and (3-18-22)(\_\_\_\_)

c. The value of all renewable energy credits or similar incentives based on a proportionate share of the leased lands in the entire project area qualifying for the credits. (3-18-22)

**03. Due Date.** Royalties will be due and payable monthly to the Department on or before the last day of the calendar month following the month in which the ~~g~~Geothermal ~~r~~Resources and/or their ~~a~~Associated ~~b~~By-~~p~~Products are produced and utilized or sold. (3-18-22)(\_\_\_\_)

**04. Utilization of Geothermal Resources.** The Lessee, ~~within thirty (30) days after execution~~, must file with the Department ~~within thirty (30) days after execution~~ a copy of any contract for the utilization of ~~g~~Geothermal ~~r~~Resources from the ~~l~~ease. ~~Unless otherwise authorized, in writing, by the Department, R~~reports of sales or utilization by Lessee and royalty for each productive ~~l~~ease must be filed ~~each month~~ ~~monthly~~ once production begins, even though production may be intermittent, ~~unless otherwise authorized by the Department. The report must include T~~total volumes of ~~g~~Geothermal ~~r~~Resources produced and utilized or sold, including ~~a~~Associated ~~b~~By-~~p~~Product(s), the value of production, and the royalty due ~~to~~ the state of Idaho ~~must be shown. This~~ ~~The~~ report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due ~~to~~ the state of Idaho. (3-18-22)(\_\_\_\_)

**05. Measurement.** The Lessee will measure ~~or gauge~~ all production in accordance with ~~Department approved~~ ~~approved by the Department~~ methods. The quantity and quality of all production will be determined in accordance with the standard practices, procedures, and specifications generally used in industry. All measuring equipment must be tested consistent with industry practice and, if found defective, the Department will determine the quantity and quality of production from the best evidence available. (3-18-22)(\_\_\_\_)

**06. By-Product Testing.** The Lessee ~~will periodically~~ ~~must~~ furnish the Department the results of periodic tests ~~consistent with industry practice~~ showing the content of ~~b~~By-~~p~~Products in the produced ~~g~~Geothermal ~~r~~Resources. ~~Such tests will be taken as specified by the Department and by the method of testing approved by him, except that tests not consistent with industry practices will be conducted at the expense of the Department. The Department may require additional tests be taken at Lessee's expense. Any additional tests which are not consistent with industry practices will be conducted at the expense of the Department.~~ (3-18-22)(\_\_\_\_)

**07. Commingling Pooling.** The Department may authorize a Lessee to ~~commingle~~ ~~pool~~ production from wells on ~~his~~ ~~their~~ State ~~l~~ease(s) with production from non-state lands. Department approval of ~~commingling~~ ~~pooling~~ will not be unreasonably withheld, and will consider the following: (3-18-22)(\_\_\_\_)

a. The ~~e~~Operator's economic necessity of ~~commingling~~ ~~pooling~~; (3-18-22)(\_\_\_\_)

b. The type of geothermal use proposed for the ~~commingled~~ ~~pooled~~ waters; and (3-18-22)(\_\_\_\_)

c. Sufficient measurement and accounting of all the ~~commingled~~ ~~pooled~~ waters to ensure that the Department is appropriately compensated by royalties. (3-18-22)(\_\_\_\_)

**037. -- 039. (RESERVED)**

**040. SIZE OF A LEASABLE TRACT.**

**01. Surface Area.** Geothermal ~~l~~Leases are not limited in surface area. The Board will determine the surface area of a ~~l~~ease after consultation with other state agencies and prospective Lessees. The probable extent of a

geothermal ~~R~~eservoir, the surface area needed for a viable project, and other relevant factors will be used to help determine ~~L~~ease surface area. (3-18-22)(    )

**02. Navigable Water Courses.** Geothermal ~~R~~esources ~~L~~esees may be issued for ~~s~~State ~~L~~ands underlying ~~n~~avigable ~~w~~ater ~~e~~ourses ~~in Idaho~~. Such lands are considered ~~"s~~State ~~L~~ands<sup>22</sup> and will be leased in accordance with these rules. Operations in the beds of ~~n~~avigable ~~w~~ater ~~e~~ourses will not be authorized except in necessary circumstances and then only with ~~the Board's~~ express written approval ~~of the Board and~~ upon such conditions and security as the Department deems appropriate. (3-18-22)(    )

**041. -- 049. (RESERVED)**

**050. LAND SURFACE USE RIGHTS AND OBLIGATIONS.**

**01. Use and Occupancy.** (3-18-22)

**a.** Lessee will be entitled to use and occupy only so much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration, ~~for, drilling for, production and marketing or drilling, producing, or marketing for~~ ~~g~~Geothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products produced from the leased lands, including the right to construct and maintain thereon all works, buildings, plants, waterway, roads, communication lines, pipelines, reservoirs, tanks, pumping stations or other structures necessary to the full enjoyment and development thereof, consistent with ~~Department approved~~ plan of operations and amendments, ~~thereto, as approved by the Department if amended.~~ (3-18-22)(    )

**b.** Uses occurring on the leased area related to exploration, development, production, or marketing of ~~g~~Geothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products ~~produced from off-lease lands may require the Lessee to pay additional rent.~~ (3-18-22)(    )

~~**02. Supervision.** Uses of state lands within the jurisdiction and control of the Board are subject to the supervision of the Department. Other state lands are subject to the supervision of the appropriate state agency consistent with these rules.~~ (3-18-22)

~~**032. Distance from Residence.** No well may be drilled within two hundred (200) feet of any house or barn on the ~~premises~~ ~~leased lands~~, without the written consent of the Department and its surface Lessees, grantees, or contract purchasers.~~ (3-18-22)(    )

~~**043. Disposal of Leased Land.** The Board reserves the right to sell or otherwise dispose of the ~~Leased Land's~~ surface ~~of the lands embraced with a lease, insofar as said to the extent that the~~ surface is not necessary for ~~the Lessee's~~ use ~~of the Lessee~~ in the exploration, development, and production of the ~~g~~Geothermal ~~R~~esources and ~~a~~Associated ~~b~~By-~~p~~Products, ~~but a~~ ~~Any sale disposal~~ of surface rights made subsequent to ~~execution~~ ~~executing~~ of a ~~L~~ease will be subject to ~~all of that Lease's~~ the terms and provisions ~~of that lease during the life thereof for the Lease's duration.~~ (3-18-22)(    )~~

~~**054. Damage.** Lessee must pay ~~to~~ the Board, its surface ~~L~~essees or grantees, or contract purchasers, for any damage done to the surface of said lands and improvements thereon, including without limitation growing crops, by reason of Lessee's operations.~~ (3-18-22)(    )

**051. -- 053. (RESERVED)**

**054. EXPLORATION UNDER THE LEASE.**

**01. Diligent Exploration.** Lessees must perform diligent exploration and development activities in the first five (5) years of the initial ~~L~~ease term or as otherwise extended by ~~L~~ease provision. Diligent exploration includes seismic, gravity, and other geophysical surveys, geothermometry studies, drilling temperature gradient wells, or similar activities that seek to determine the presence or extent of ~~g~~Geothermal ~~R~~esources. This exploration may occur off ~~of~~ ~~leased lands~~ if it is being done on the same geothermal ~~F~~ield. Failure to perform diligent exploration as described may result in ~~L~~ease cancellation. (3-18-22)(    )



~~02. **Casual Exploration.** At any time after formal approval by the Board of a lease application, Lessee may enter upon the leased lands for casual exploration or inspection without notice to the department. As an express condition of an application to lease and of the right of casual inspection without notice, Lessee agrees to the indemnity conditions provided in Section 102 of these rules without a formally executed lease. (3-18-22)~~

**032. Plan Required.** Lessee must submit a Research and Analysis Plan to the Department before any exploration using motorized equipment or before otherwise engaging in operations that may lead to an appreciable disturbance or damage to lands, timber, other resources, or improvements on or adjacent to the Motorized Exploration on leased lands. The proposed activities may not start until the Department approves the plan and the applicable preconditions in Sections 100 and 101 of these rules have been satisfied. The plan of operations may be amended as needed with Department approval. The plan includes all items that the Department deems necessary or useful in managing the gGeothermal rResources including, but not limited to, the following: (3-18-22)( )

**a.** A narrative statement describing all diligent exploration activities that Lessee will conduct, including the type; location; expected impact, disturbance, or damage to the land or existing natural resources; and schedule of all proposed or planned diligent exploration. ( )

**b.** A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to the prevention or control of: (3-18-22)

i. Fires; (3-18-22)

ii. Soil loss and erosion; (3-18-22)

iii. Pollution of surface and ground waters; (3-18-22)

iv. Damage to fish and wildlife or other natural resources; (3-18-22)

v. Air and noise pollution; and (3-18-22)

vi. Hazards to public health and safety during lLease activities; (3-18-22)( )

**b.c.** All pertinent information or data that the dDepartment may require to support the plan of operations for the utilization of gGeothermal rResources and the protection of the environment; (3-18-22)( )

**d.** A proposed schedule, which includes major milestones with sufficient detail to assess progress. ( )

## **055. DEVELOPMENT AND PRODUCTION UNDER THE LEASE.**

**01. Diligent Development of Lease and Production.** Lessee must develop the gGeothermal rResources on their leased area lands for the Lease's duration and start production within the first ten (10) years of the initial lLease term or as otherwise extended by lLease provision. Development of the leased area lands requires drilling wells to be drilled and constructing other necessary infrastructure to be built to enable production. Production on the leased area lands means that gGeothermal fluids Resources are being used and royalties are being paid to the sState. Failure to develop under the lLease and start production as described may result in lLease cancellation unless the Lessee applies to the Department, for and the Department grants an extension and the extension is granted. (3-18-22)( )

**02. Best Practices.** All operations will conform to the best practice and engineering principles in use in the industry. Operations must be conducted in such a manner as to: protect the natural resources on the leased lands, including without limitation gGeothermal rResources, and to; result in the maximum ultimate recovery of gGeothermal rResources with a minimum of minimal waste; and be consistent with the principles of the land's use of the land for other purposes and of the protection of the environment. Lessee must promptly remove from the leased lands or store, in an orderly manner, all scraps or other materials not in use and not reasonably incident to the operation. (3-18-22)( )

**03. Plans Required.** Prior to development, Lessee must submit a ~~D~~development ~~P~~plan, ~~O~~operating ~~P~~plan, and ~~D~~decommissioning and ~~R~~reclamation ~~P~~plan for the leased lands. All plans must be approved by the Department, in writing, prior to Lessee beginning a phase of the ~~L~~lease in which those plans are performed or as otherwise required by the ~~L~~lease. ~~All required pPlans~~ must include all items that the Department deems necessary or useful in managing the ~~g~~Geothermal ~~r~~Resources, including, ~~but not limited to, those the~~ items referred to in ~~Paragraphs Sections~~ 054.03.a. and 054.03.b. ~~of these rules.~~ (3-18-22)(    )

**04. Waste and Damage.** (3-18-22)

**a.** Lessee must take all reasonable precautions to prevent the following: (3-18-22)

**i.** Waste; (3-18-22)

**ii.** Damage to other natural resources; (3-18-22)

**iii.** Injury or damage to ~~p~~Persons, real or personal property; and (3-18-22)(    )

**iv.** Any environmental pollution or damages that may constitute a violation of state or federal laws. (3-18-22)

**b.** The Department may inspect Lessee's operations and issue ~~such any orders as are~~ necessary to accomplish the purposes in ~~Paragraph Section~~ 055.04.a. Any significant effect on the environment created by the Lessee's operations or failure to comply with environmental standards must be reported to the Department by Lessee within twenty-four (24) hours and confirmed in writing within thirty (30) days. (3-18-22)(    )

**05. Notice of Production.** Lessee must notify the ~~d~~Department within sixty (60) days before any ~~g~~Geothermal ~~r~~Resources are used or removed for commercial purposes. (3-18-22)(    )

**06. Amendments.** ~~Lessee may amend T~~the plan of operations ~~must be amended by the Lessee for the Department's approval and submit it to the Department for written approval~~ to reflect changes in operations on the leased lands, including the installation of works, buildings, plants, or structures for the production, marketing, or utilization of ~~g~~Geothermal ~~r~~Resources. (3-18-22)(    )

**056. WASTE PREVENTION, DRILLING AND PRODUCTION OBLIGATIONS.**

**01. Waste.** All ~~L~~leases are subject to the condition that the Lessee will, in conducting ~~his~~ exploration, development, and ~~producing production~~ operations, use all reasonable precautions to prevent ~~w~~Waste of ~~g~~Geothermal ~~r~~Resources and other natural resources found or developed in the leased lands. (3-18-22)(    )

**02. Diligence.** The Lessee must, subject to the right to surrender the ~~L~~lease, diligently drill and produce, or unitize such wells as are necessary to protect the Board from loss by reason of production on other properties. (3-18-22)(    )

**03. Prevention of Waste Through Reinjection.** ~~Geothermal~~ Lessees must return geothermal waters to the geothermal aquifer in a manner that supports geothermal development. (3-18-22)(    )

**04. Additional Requirements.** The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers, and other surface control equipment and materials, casing and cementing programs, etc., to be used must be based on sound engineering principles and must take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated, and other pertinent geologic and engineering data and information about the area. In addition, the Lessee must ~~do the following:~~ (3-18-22)(    )

**a.** Take all necessary precautions to keep all wells under control at all times; (3-18-22)

**b.** Utilize trained and competent personnel; (3-18-22)

- c. Utilize properly maintained equipment and materials; and (3-18-22)
- d. Use operating practices that ensure the safety of life and property. (3-18-22)

**05. Unused Wells.** Except as provided in Subsection 070.02 ~~of these rules~~, the Lessee must promptly plug and abandon any unused or non-useful well on the leased land ~~that is not used or useful~~ in conformity with IDWR's regulations promulgated by the IDWR or its successor agency. ~~No~~ A production well ~~will may not~~ be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the Department's satisfaction of the Department and the Department has been given an opportunity to either acquire the well permit or assign it to another party. A producible well may be abandoned only after ~~receipt of written approval by the Department~~ Department's written approval. Equipment will be removed, and premises at the well site will be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well, except as otherwise authorized by the Department in writing. Drilling equipment must not be removed from any suspended drilling well without taking adequate measures to close the well and protect subsurface resources. ~~Upon Lessee's failure of Lessee~~ to comply with any requirements under this rule, may result in the Department is authorized to cause causing the work to be performed at the expense of the Lessee and the surety. (3-18-22)(    )

**057. -- 059. (RESERVED)**

**060. EXPLORATION AND OPERATION RECORDS, CONFIDENTIALITY.**

**01. Drilling Records.** Lessee must keep or cause to be kept and filed, with the IDWR such careful and accurate well drilling records as are ~~now or may hereafter be~~ required by ~~that Department~~ IDWR. As an express condition of the Lease, the Department may, at any time, inspect and copy well drilling records filed with IDWR. Lessee must file with the Department such production records and exploration evidence as required by Sections 030, 036, and 055 of these rules; ~~which~~ The production records will be are subject to public inspection ~~by the public~~ at the Department's offices, ~~of the Department~~ during regular business hours and under such conditions as the Department deems appropriate, subject, ~~however, to exemptions from~~ except for disclosure ~~as exemptions~~ set forth in Section 74-107, Idaho Code. ~~As an express condition of the lease, the Department may inspect and copy well drilling records filed with the IDWR at any time after the records are filed.~~ (3-18-22)(    )

**02. Continuing Obligations.** Lessee's obligations under this rule will continue beyond assignment, surrender, termination, or expiration of the Lease. Unless Lessee is specifically released in writing by the Department the Department releases the Lessee, in writing, of all or any portion of its obligations under the lease upon the assignment, surrender, termination or expiration of the Lease. Lessee's obligations under this rule will continue beyond assignment, surrender, termination or expiration of the lease. Lessee must file all outstanding data and records required by law with the Department, within thirty (30) days after assignment, surrender, termination or expiration, or such additional time as the Department may grant, ~~file all outstanding data and records required by this rule with the Department.~~ (3-18-22)(    )

**03. Well Logs.** The confidentiality of well logs is limited to one (1) year from well eCompletion as stated in Section 42-4010(b), Idaho Code. (3-18-22)(    )

**061. -- 064. (RESERVED)**

**065. LESSEE'S RECORDS, RIGHT OF INSPECTION BY DEPARTMENT.**

~~Lessee will permit~~ The Department to may examine, during ~~reasonable~~ business hours, all books, records, and other documents and matters pertaining to operations under a Lease, which are in Lessee's custody or control, and ~~to may~~ make copies of and extracts therefrom. (3-18-22)(    )

**066. -- 069. (RESERVED)**

**070. WATER RIGHTS.**

**01. Water Rights.** Lessee must comply with all applicable federal and state laws, rules and regulations regarding the appropriation of public waters of Idaho to beneficial uses. The establishment of any new water rights on

sState Hlands must be by and for the Lessor and no claim thereto may be made by the Lessee. Such water rights will attach to and become appurtenant to the sState Hlands, and the Lessor will be the owner thereof. (3-18-22)( )

02. **Potable Water Discovery.** ~~All HLeases issued under these rules will be arc~~ subject to the condition that, ~~where if~~ the Lessee finds only potable water ~~of, which has~~ no commercial value as a ~~gGeothermal rResource,~~ in any well drilled for exploration or production of ~~gGeothermal rResources,~~ and ~~when~~ the water is of such quality and quantity ~~so~~ as to be valuable and usable for agricultural, domestic, or other purpose, the Board, or where appropriate, the surface Lessee, grantee or contract purchaser, will have the right to acquire the well with whatever casing is installed ~~in the well~~ at the ~~casing's~~ fair ~~mMarket vValue of the casing,~~ and upon ~~the assumption~~ assuming of all future liabilities and responsibilities for the well, ~~and~~ with the approval of ~~the IDWR's~~ director ~~of the IDWR.~~ (3-18-22)( )

071. -- 074. (RESERVED)

075. ASSIGNMENTS.

01. **Prior Written Approval.** ~~In order for Lessee to effect an assignment, Lessee must, prior to the consummation of an effective sale, transfer or assignment of the lease between Lessee and its proposed assignee, provide to the Department certain information about the proposed assignment, including identification of A Lessee must obtain the Department's written approval for an assignment to be effective. Before consummating a sale, transfer, or assignment of the Lease, Lessee must provide the Department with certain information about the proposed assignment. Such information includes identifying the proposed assignee and the general terms of the proposed assignment on Department assignment application forms provided by the Department. Any proposed total or partial assignment of a lease must be preapproved in writing by the Department prior to any proposed sale, transfer or assignment of the lease is consummated between Lessee and the proposed assignee. Approval will not be unreasonably withheld.~~ Following the Department's written preapproval of the proposed assignee and general terms of the proposed assignment, Lessee and assignee may consummate any such sale, transfer, or assignment of Lessee's leasehold interest in the HLease. The consummation of any assignment agreement by the Lessee without the Department's ~~prior~~ written preapproval constitutes a default of the HLease, and such sale, transfer, or assignment may be rejected in the Department's sole discretion; and, such assignment will only be effective if the default is expressly waived in writing by the Department. ~~In order f F~~ For an assignment of Lessee's interest in the HLease to be acceptable for Department approval ~~by the Department,~~ the consummated sale, transfer or assignment must include provisions wherein Lessee has sold, transferred, or assigned to the assignee any and all interest that Lessee has in the HLease together with any ~~and all~~ interest Lessee has in any ~~and all~~ improvements located upon the leased ~~premises lands,~~ and assignee must assume all liabilities of Lessee under the HLease together with ownership of all improvements owned by Lessee. An assignment between Lessee and its assignee will only take effect following the Department's final written approval of the assignment following receipt of copies of the final, consummated sale, transfer or assignment agreement between Lessee and assignee. (3-18-22)( )

02. **Full or Partial.** A HLease may be assigned as to all or part of the acreage included therein to any qualified pPerson ~~qualified to hold a state lease,~~ provided that neither the assigned nor the retained part created by the assignment contains less than forty (40) acres. ~~No An assignment cannot create an~~ undivided interest in a HLease of less than ten percent (10%) ~~may be created by assignment.~~ (3-18-22)( )

03. **Overriding Royalty Disclosure.** Overriding royalty interests created by an assignment are subject to the requirements in Section 080 ~~of these rules.~~ (3-18-22)( )

04. **Responsibility.** ~~In an assignment of assigning~~ a partial or complete interest in ~~all of leased~~ the lands ~~in a lease,~~ the ~~assignor Lessee~~ and its surety continue to be responsible for ~~performance of any and performing~~ all obligations under the HLease until ~~such time as~~ the Department, in writing, releases Lessee and its surety from obligations arising under the HLease after the Department accepts any such assignment ~~and provides a release of any or all obligations in writing.~~ After ~~the an assignment's~~ effective date ~~of any assignment,~~ the assignee and its surety will be bound by the terms of the lease to the same extent as if the assignee were the original Lessee, (any conditions in the assignment to the contrary notwithstanding). (3-18-22)( )

05. **Segregation of Assignment.** An assignment of all or any portion of Lessee's ~~rRecord tTitle~~ of the complete interest in a portion of the leased lands ~~in a lease~~ must clearly identify and segregate the assigned and

retained portions. After the effective date, the assignor will be released and discharged from any obligations thereafter accruing with respect to the assigned portion of the leased lands. Such segregated Hleases continue in full force and effect for the primary term of the original Hlease or as further extended pursuant to the terms of these rules.

(3-18-22)( )

**06. Joint Principal.** Where an assignment does not segregate the Record Title to the Hlease, the assignee, ~~if the assignment so provides,~~ may become a joint principal on the bond with the assignor, ~~if the assignment so provides.~~ The application must ~~also~~ be accompanied by ~~a consent of the~~ assignor's written consent to remain bound under the bond of record, if the bond's ~~by its terms,~~ does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement.

(3-18-22)( )

**07. Application.** The application for approval of an assignment must be on Department approved forms ~~approved by the Department.~~

(3-18-22)( )

**08. Denial.** If the Lessee is in default of the Hlease at the time of a request for assignment approval, the Department may, ~~at in~~ its sole discretion, reject any proposed assignment until the Hlease is brought into full compliance. The approval of an assignment of a Hlease in good standing will not be unreasonably withheld, provided such consent of the Department is requested and obtained prior to any assignment.

(3-18-22)( )

**076. -- 079. (RESERVED)**

**080. OVERRIDING ROYALTY INTERESTS.**

**01. Statements.** An overriding royalty interest, or any similar interest whereby an agreement is made to pay a percentage based on production, must be disclosed at the time of assignment or transfer by filing a statement of such interest with the Department. Assignees must meet the requirements of Section 0210 ~~of these rules.~~ All assignments of overriding royalty interests without a working interest and otherwise not contemplated by Section 075 ~~of these rules,~~ must be filed with the Department within ninety (90) days from the date of execution.

(3-18-22)( )

**02. Maximum Amount.** No eOverriding Royalty on the production of gGeothermal Resources created by an assignment ~~contemplated by~~ under Section 075, ~~of these rules~~ or otherwise, will exceed five percent (5%) nor will an eOverriding Royalty, when added to eOverriding Royalties previously created, exceed five percent (5%).

(3-18-22)( )

**03. Conformance with Rules.** The creation of an eOverriding Royalty interest that does not conform to the requirements of this rule is ~~be~~ deemed a violation of the Hlease terms, unless the agreement creating eOverriding Royalties provides for a prorated reduction of all eOverriding Royalties so that the aggregate rate of eOverriding Royalties does not exceed five percent (5%).

(3-18-22)( )

**04. Director's Authority.** In addition to the foregoing limitations, any agreement to create, or any assignment creating, royalties or payments out of production from the leased lands is subject to the authority of the Director, after notice and hearing, to require the proper parties thereto to suspend or modify such royalties or payments out of production in such manner as may be reasonable when and during such periods of time as they may constitute an undue economic burden upon the reasonable operations of such Hlease.

(3-18-22)( )

**081. -- 084. (RESERVED)**

**085. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.**

**01. IDWR Approval.** Nothing in this rule ~~will~~ excuses the parties to a unit agreement from procuring the IDWR's approval ~~of the IDWR,~~ if required, pursuant to Section 42-4013, Idaho Code, ~~if approval is required.~~

(3-18-22)( )

**02. Unit Plan.** For the purpose of conserving the natural resources of any geothermal pPool, fField, or like area, Lessees ~~under lease issued by the Board are authorized~~ may, with the Department's written consent ~~of the~~

~~Department to~~ commit the ~~s~~State ~~L~~ands to unit, cooperative, or other plans of development or operation with other ~~s~~State ~~L~~ands, federal lands, privately-owned lands, or Indian lands. ~~The Department's~~ consent will not be unreasonably withheld. Applications to unitize, or a copy of the application filed with IDWR, ~~will must~~ be filed with the Department who will certify whether ~~such the~~ plan is necessary or advisable in the public interest. The Department may require whatever documents or data ~~that the Department~~ deemed necessary in ~~its reasonable the~~ Department's discretion. To implement such unitization, the Board may, with the consent of its Lessees, modify and change any ~~and all~~ terms of leases ~~issued by it~~ that are committed to such unit, cooperative, or other plans of development or operations. (3-18-22)(\_\_\_\_)

**03. Contents.** The agreement must describe the separate tracts comprising the unit; disclose the apportionment of the production of royalties and costs to the several parties; ~~and disclose~~ the name of the ~~e~~Operator; and ~~must~~ contain adequate provisions for the protection of the interests of all parties, including the state of Idaho; ~~be signed by, or on behalf of all interested necessary parties, and be submitted to the Department.~~ The agreement ~~should must~~ be signed by or ~~in on~~ behalf of all interested necessary parties before being submitted to the Department. It will be effective only after written approval by the Department. The unit operator must be a ~~p~~Person, as defined by these rules and ~~must be~~ approved by the Department. (3-18-22)(\_\_\_\_)

**04. Lease Modification.** Any modification of an approved agreement will require the Department's written approval ~~of the Department~~ under procedures similar to those ~~cited~~ in Subsection 085.02 ~~of these rules.~~ (3-18-22)(\_\_\_\_)

**05. Term.** At the sole discretion of the Department, the term of any leases included in any cooperative or unit plan of development or operation may be extended for the term of such unit or cooperative agreement, but in no event beyond ~~that the~~ time provided in Subsection 030.01 ~~of these rules.~~ Rentals or royalties on leases so extended may be reassessed for such extended term of the lease. (3-18-22)(\_\_\_\_)

**06. Continuation of Lease.** Any lease that will be eliminated from any such cooperative or unit plan of development or operation, or any lease that will be in effect at the termination of any such cooperative or unit plan of development or operation, unless relinquished, will continue in effect for the term of the lease. (3-18-22)

**07. Evidence of Agreement.** Before ~~issuance of~~ issuing a lease for lands within an approved unit agreement, the lease applicant or successful bidder ~~will be required to must~~ file evidence that they have entered into an agreement with the unit operator for the development and operation of the lands in a lease if the lease is issued to ~~him them~~ under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the lease applicant or successful bidder ~~will be permitted to may~~ operate independently, but ~~will be required to must~~ perform ~~his their~~ operations in a manner that the Department deems to be consistent with the unit operations. (3-18-22)(\_\_\_\_)

**086. -- 094. (RESERVED)**

**095. SURRENDER, TERMINATION, EXPIRATION OF LEASE.**

**01. Procedure.** A Lease, or any surveyed subdivision of the ~~area covered by such lease~~ leased lands, may be surrendered by the ~~R~~Record ~~T~~itle holder by filing with the Department a written relinquishment on a Department form, in the office of the Department, on a form furnished by the Department, provided that a partial relinquishment ~~does can~~ not reduce the remaining acreage in the Lease to less than forty (40) acres. The minimum acreage provision of this section may be waived by the Department ~~where if~~ the Department finds such exception is justified ~~on the basis of~~ based on exploratory and development data derived from activity on the leasehold. The relinquishment must: (3-18-22)(\_\_\_\_)

a. Describe the lands to be relinquished; (3-18-22)

b. Include a statement as to whether the relinquished lands ~~had have~~ been disturbed and, if so, whether they were restored as prescribed by the Lease's terms ~~of the lease~~; and (3-18-22)(\_\_\_\_)

c. State whether wells ~~had have~~ been drilled on the lands and, if so, whether they have been plugged and abandoned pursuant to ~~the IDWR's~~ rules ~~of the IDWR.~~ (3-18-22)(\_\_\_\_)

**02. Continuing Obligations.** A relinquishment takes effect on the date it is filed, subject to the continued obligation of the Lessee and ~~his~~ their surety to: (3-18-22)(\_\_\_\_)

- a. ~~To m~~Make payments of all accrued rentals and royalties; (3-18-22)(\_\_\_\_)
- b. ~~To p~~Place all wells on the relinquished land ~~to be relinquished~~ in condition for suspension of operations or abandonment; (3-18-22)(\_\_\_\_)
- c. ~~To r~~Restore the surface resources in accordance with these rules and the terms of the Lease; and (3-18-22)(\_\_\_\_)
- d. ~~To e~~Comply with all other environmental stipulations provided for by ~~these rules or lease~~ the Lease and applicable law. (3-18-22)(\_\_\_\_)

**03. Failure to Pay Rental or Royalty.** The Director may terminate a Lease for failure to pay rentals or royalties thirty (30) days after mailing a notice of delinquent payment. ~~However, if~~ the time for payment falls upon any day in which the ~~office of the~~ Department is not open, payment received on the next official working day will be deemed to be timely. The termination of the Lease for failure to pay the rental will be noted on the Department's official records ~~of the Department~~. Upon termination the lands included in such lease may become subject to leasing as provided by these rules. (3-18-22)(\_\_\_\_)

**04. Termination for Cause.** A Lease may be terminated by the Department for any violation of ~~these rules, or the lease terms;~~ the Lease's terms or of applicable laws sixty (60) days after notice of the violation has been given to Lessee by personal service or certified mail, return receipt requested, to the address of record last appearing in the Department's files ~~of the Department~~, unless: (3-18-22)(\_\_\_\_)

- a. The violation has been corrected; or (3-18-22)
- b. The violation is one that cannot be corrected within the notice period and the Lessee has in good faith commenced, within the notice period, ~~to correct~~ ing the violation and ~~thereafter has diligently~~ proceeds ~~diligently~~ to complete the correction. (3-18-22)(\_\_\_\_)

**05. Equipment Removal.** Prior to the Lease's expiration, ~~of the lease, or the earlier~~ termination, or surrender ~~thereof pursuant to this rule~~, and provided the Lessee is not in default, the Lessee ~~will have the privilege at any time during the term of the lease to~~ may remove from the leased ~~premises~~ lands any materials, tools, appliances, machinery, structures, and equipment, other than improvements needed for producing wells. ~~Any materials, tools, appliances, machinery, structures and equipment~~ Anything subject to removal, but not removed ~~prior to any termination of the lease or any extension thereof that may be granted because of adverse climatic conditions during that period, will,~~ may become property of the state of Idaho, at the option of the Department, ~~become property of the state of Idaho, but the Lessee must remove any or all such property where so directed by the Department; be removed by the Department, at the Lessee's expense; or be removed by the Lessee, at the Department's request.~~ (3-18-22)(\_\_\_\_)

**06. Surrender After Termination.** Upon the expiration or termination of a Lease, the Lessee will quietly and peaceably surrender possession of the premises to the state, and if the Lessee is surrendering the leased premises or any portion thereof, the Lessee must deliver to the state a good and sufficient release on a form furnished by the Department. (3-18-22)(\_\_\_\_)

**096. -- 099. (RESERVED)**

**100. BOND REQUIREMENTS.**

**01. Minimum Bond.** ~~Prior to initiation of operations using motorized earth-moving equipment~~ Before using Motorized Exploration Lessee must furnish a bond. This bond will be in favor of the state of Idaho, conditioned on the payment of all damages to the land surface and all improvements thereon, including without limitation crops on the lands, whether or not the leased lands ~~under this lease~~ have been sold or leased by the Board for any other

purpose; conditioned also upon ~~compliance by Lessee of his~~ Lessee complying with their obligations under ~~this their~~ Lease and these rules. The Department may require a new bond in a greater amount at any time after operations have begun, upon a finding that such ~~action bond~~ is reasonably necessary to protect State resources. (3-18-22)(\_\_\_\_)

**02. Statewide Bond.** In lieu of the aforementioned bonds, Lessee may furnish a good and sufficient “statewide” bond ~~conditions as~~ in Subsection 100.01. This bond will cover all Lessee’s Leases and operations carried on under all Geothermal Resource Leases issued and outstanding to Lessee by the Board at any given time during the period when the “statewide” bond is in effect. The amount of such bond will be equal to the total of the requirements of the separate bonds being combined into a single bond. (3-18-22)(\_\_\_\_)

**03. Period of Liability.** The period of liability ~~of any for a~~ bond will not be terminated until all Lease terms and conditions have been fulfilled and the bond is released in writing by the Department. (3-18-22)(\_\_\_\_)

**04. Operator Bond.** ~~In the event~~ If suit is filed to enforce the terms of any bond furnished by an Operator in which the Lessee (if a different Person) is not a named party, the Department may, in its sole discretion, join the Lessee as a party to such suit. (3-18-22)(\_\_\_\_)

#### 101. LIABILITY INSURANCE.

**01. Liability Insurance Required.** ~~The Department will~~ Lessee is required ~~the Lessee~~ to purchase and maintain suitable insurance for the duration of the Lease. The insurance must be obtained prior to entry upon the leased lands for purposes other than Casual Exploration or inspection ~~as contemplated by Subsection 054.02 of these rules.~~ (3-18-22)(\_\_\_\_)

**02. Insurance Certificate Required.** No work under ~~this a~~ Lease will commence prior to the Department’s receipt of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. ~~Further, such~~ The certificate must reflect that no change or cancellation in such coverage will become effective until after the Department receives written notice of such change or cancellation. (3-18-22)(\_\_\_\_)

#### 102. -- 104. (RESERVED)

#### 105. TITLE.

The state of Idaho does not warrant title to the leased lands, ~~or the~~ Geothermal Resources, ~~and nor~~ a Associated By-Products that may be discovered thereon; ~~the~~ Lease is issued only under such title as the state of Idaho may have as of the Lease’s effective date ~~of the lease~~ or has thereafter acquired. If the interest owned by the state in the leased lands includes less than the entire interest in the Geothermal Resources and Associated By-Products for which royalty is payable, then the royalties provided for in the Lease will be paid to the state only in the proportion that its interest bears to said whole and undivided interest in said Geothermal Resources and Associated By-Products for which royalty is payable; ~~provided, however, that~~ The state is not liable for any damages sustained by the Lessee; nor is the Lessee entitled to, nor may claim any refund of rentals or royalties ~~therefore~~ paid to the state in the event that the state does not own title to said Geothermal Resources and Associated By-Products, or if its title thereto is less than whole and entire. (3-18-22)(\_\_\_\_)

#### 106. -- 110. (RESERVED)

#### ~~111. TAXES.~~

~~Lessee must pay, when due, all taxes and assessments of any kind lawfully assessed and levied against Lessee’s interests or operations under the laws of the state of Idaho.~~ (3-18-22)

#### 112. RENTAL NOTICES.

Advance notice of rental due is usually sent to the Lessee by the Department, but ~~failure to receive such notices an~~ advance notice of rental due does not ~~act to~~ relieve the Lessee from ~~the payment of~~ paying the rental, ~~and~~ The Lease will be in default if such payment is not made ~~as provided in these rules.~~ (3-18-22)(\_\_\_\_)

#### 113. OUTSTANDING LEASES.

No right to seek, obtain, or use Geothermal Resources has passed, or will pass, with any existing or future license, permit, or lease of State Lands, including without limitation, mineral leases and oil and gas development leases,



except upon ~~the issuance of~~ a ~~g~~Geothermal ~~r~~Resources ~~l~~Lease ~~being issued~~. (3-18-22)(    )

114. -- 119. (RESERVED)

**120. FEES.**

The following fees apply: (3-18-22)

**01. Non-Refundable Application Fee for Lease.** Two hundred fifty dollars (\$250) per application. (3-18-22)

**02. Application Fee for Approval of Assignment.** One hundred fifty dollars (\$150) per lease involved in the assignment. (3-18-22)

~~03. Late Payment Fee.~~ The greater of the following: (3-18-22)

~~a. Twenty five dollars (\$25); or~~ (3-18-22)

~~b. One percent (1%) per month (or portion thereof) on the unpaid balance.~~ (3-18-22)

121. -- 999. (RESERVED)

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.16 – RULES GOVERNING OIL AND GAS LEASING ON IDAHO STATE LANDS

#### DOCKET NO. 20-0316-2401 (ZBR CHAPTER REWRITE, FEE RULE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17th, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#) with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

**FEE SUMMARY:** No changes have been made to any fees in this proposed rule. The exploration permit fee remains \$100 per linear mile or a minimum of \$100 per section. Nomination fees continue to be set by the State Board of Land Commissioners (Board), which a minimum of \$250 per tract. Processing fees continue to be set by the Board at a minimum of \$100 per each document.

**FISCAL IMPACT:** There is no negative fiscal impact on the state General Fund resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 6, 2024 Idaho Administrative Bulletin, [Vol. 24-3, pages 20-21](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance with technical questions concerning the proposed rule, contact Mike Murphy at (208) 334-0290 or [mmurphy@idl.idaho.gov](mailto:mmurphy@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Mike Murphy, Minerals Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720 Boise, Idaho 83720-0050  
Phone: (208)334-0290  
Fax: (208)334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 20-0316-2401  
(ZBR Chapter Rewrite.)

20.03.16 – RULES GOVERNING OIL AND GAS LEASING ON IDAHO STATE LANDS

**000. LEGAL AUTHORITY.**

This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, ~~and~~ 58-127, Idaho Code, and; Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 8, Idaho Code, and; ~~and~~ Title 67, Chapter 52, Idaho Code. (3-18-22)(    )

**001. ~~TITLE AND SCOPE.~~**

~~01. Title. These rules are titled IDAPA 20.03.16, “Rules Governing Oil and Gas Leasing on Idaho State Lands.” (3-18-22)~~

**021. Scope.** These rules apply to the eExploration and extraction of oOil and gGas resources situated in state-owned mMineral lLands. (3-18-22)(    )

**032. Other Laws.** In addition to these rules, the lLessee must comply with all applicable federal, state and local laws, rules, and regulations. ~~The violation of~~ Violating any applicable law, rule, or regulation may constitute a ~~breach of any violation of the l~~ lease issued in accordance with these rules. (3-18-22)(    )

**002. ADMINISTRATIVE APPEALS.**

**01. Appeal to Board.** All decisions of the Director are appealable to the Board. An aggrieved party desiring to take such an appeal must, within thirty (30) days after notice of the Director’s decision, file with the Director a written notice of appeal setting forth the basis for the appeal. (3-18-22)

**02. Hearing.** The Board will hear the appeal at the earliest practical time, or in its discretion, appoint a hearing officer to hear the appeal, within sixty (60) days after filing of the notice of appeal. The hearing officer will make findings and conclusions that the Board may accept, reject or modify. The decision of the Board after hearing or upon a ruling concerning the hearing officer’s findings and conclusions is final. (3-18-22)(    )

**03. Judicial Review.** Judicial review of the final decision of the Board will be in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, by filing a petition in the district court in Ada County, or the county where the Board heard the appeal and made its final decision, within thirty (30) days after notice of the Board’s decision. Service of the Board’s decision may be by personal service or by certified mail to the lLessee. (3-18-22)(    )

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The terms Mineral Lands, Mineral, and Mineral Right are defined in Section 47-701, Idaho Code. The terms Casual Exploration and Motorized Exploration are defined in Section 47-703A, Idaho Code. The term Legal Subdivision is defined in Section 58-809, Idaho Code. In addition to the identified definitions in Idaho Code, the following definitions apply to these rules: (    )

**01. Board.** The Idaho State Board of Land Commissioners or its ~~authorized representative designee,~~ or where appropriate, the state of Idaho. (3-18-22)(    )

- 02.** **Commission.** The Idaho Oil and Gas Conservation Commission. (3-18-22)
- ~~**03.** **Collateral Surety Bond and Corporate Surety Bond.** See Subsections 080.04.a. and 080.04.b. (3-18-22)~~
- ~~**043.** **Department.** The Idaho Department of Lands. (3-18-22)~~
- 054.** **Director.** The Director of the Idaho Department of Lands or ~~his authorized representative~~ their designee. (3-18-22)(    )
- ~~**06.** **Discretion.** Exercising authority to make a decision, choice or judgment without being arbitrary, capricious or illegal. (3-18-22)~~
- 075.** **Exploration.** Activities related to the various geological and geophysical methods used to detect and determine the existence and extent of hydrocarbon deposits. (3-18-22)
- 086.** **Final Board Approval.** Approval of a HLease occurs after the HLease is signed by the Governor, ~~the~~ Secretary of State, ~~and the~~ Director, on behalf of the Board, after approval of the HLease by a majority of the Board. All approved HLeases must first be signed by the Lessee and then by the above-entitled state officials. (3-18-22)(    )
- 097.** **Lease.** A written agreement between the Department and a pPerson containing the terms and conditions upon which the Person will be authorized to use sState HLands. (3-18-22)(    )
- ~~**10.** **Legal Subdivision.** See Subsection 071.04. (3-18-22)~~
- ~~**108.** **Lessee.** The pPerson to whom a HLease has been issued and his successor in interest or assignee(s). More than one (1) pPerson may be entered as an applicant on the application form but only one (1) pPerson ~~shall will~~ be designated in the application for HLease or assignment as the HLessee of record with sole responsibility for the HLease under these rules. (3-18-22)(    )~~
- ~~**1209.** **Lessor.** The Board on behalf of the state of Idaho. (3-18-22)~~
- ~~**13.** **Motorized Exploration Equipment.** The equipment used in exploration that may appreciably disturb or damage the land or resources thereon as defined in Section 47-703(a), Idaho Code. (3-18-22)~~
- 140.** **Natural Gas Plant Liquids.** Hydrocarbon compounds in raw gas that are separated as liquids at gas processing plants, fractionating plants, and cycling plants. Includes ethane, liquefied petroleum gases (propane and the butanes), and pentanes plus any heavier hydrocarbon compounds. Component products may be fractionated or mixed. (3-18-22)
- ~~**151.** **Oil and Gas.** ~~Oil and gas means o~~ Oil or gas, or both. (3-18-22)(    )~~
- 162.** **Person.** An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)(    )
- ~~**a.** An individual of legal age; (3-18-22)~~
- ~~**b.** Any firm, association or corporation that is qualified to do business in the state of Idaho; (3-18-22)~~
- ~~**e.** Or any public agency or governmental unit, including without limitation, municipalities. (3-18-22)~~
- 173.** **Production in Paying Quantities.** That gross income from oil and/or gas produced and saved (after deduction of taxes and royalty) that exceeds the cost of operation. (3-18-22)

**184. State Lands.** Lands, including the beds of navigable waters within Idaho in which the title to ~~m~~Mineral ~~r~~Rights is owned by the state of Idaho, that are under the jurisdiction and control of the Board or any other state agency. (3-18-22)(\_\_\_\_)

**195. Tract.** An expanse of land representing the surface expression of the underlying ~~m~~Mineral estate, which includes oil and gas rights owned by the State, that: (3-18-22)(\_\_\_\_)

**a.** May be identified by its public land survey system of rectangular surveys that subdivides and describes land in the United States in the public domain and is regulated by the U.S. Department of the Interior, Bureau of Land Management; (3-18-22)

**b.** Is of no particular size; (3-18-22)

**c.** Is a maximum size of six hundred forty (640) acres or one section, unless otherwise determined by the Director; (3-18-22)

**d.** May be irregular in form; (3-18-22)

**e.** Is contiguous; (3-18-22)

**f.** May lie in more than one township or one section; (3-18-22)

**g.** May have a boundary defined entirely or in part by natural monuments such as streams, divides, or straight lines connecting prominent features of topography; (3-18-22)

**h.** May include the ~~m~~Mineral estate beneath navigable waters of the State; and (3-18-22)(\_\_\_\_)

**i.** May be combined with other ~~t~~Tracts to form a ~~l~~Lease. (3-18-22)(\_\_\_\_)

~~011. — 014.~~ (RESERVED)

**015. CONTROL OF STATE LANDS.**

~~The Director will regulate and supervise pursuant to law and these rules all state lands within the custody and control of the Board. State lands subject to the custody and control of other state agencies will be regulated and supervised by the respective agency in accord with state laws and rules; provided that any lease for oil and gas thereon complies with these rules.~~ (3-18-22)

**016. WITHDRAWAL OF LANDS.**

~~At any time prior to final Board approval of a lease, the Board reserves the right to withdraw state lands entirely from oil and gas leasing if consistent with its constitutional and statutory duties and in the state's best interests.~~ (3-18-22)

~~017. -- 019.~~ (RESERVED)

**020. QUALIFIED APPLICANTS AND LESSEES.**

Any ~~p~~Person who ~~is not then in default of any contract~~ does not have a contract in default with the state of Idaho or any department or agency thereof is a qualified applicant and ~~l~~Lessee. ~~No member of the Board or employee of the Department~~ Neither Board members nor Department employees may take or hold such ~~l~~Lease. (3-18-22)(\_\_\_\_)

**021. EXPLORATION.**

**01. Written Permit Required.** Any appreciable surface disturbing activity, including, ~~but not limited to, m~~ Motorized eExploration, ~~on s~~State ~~l~~Lands is prohibited, ~~except by when a~~ written exploration permit is received for exploration for a period of time as determined by the Director. This permit is in addition to any permit required by the Commission. (3-18-22)(\_\_\_\_)

**02. Permit Conditions.** The Director will determine when the exploration permit expires. The permit ~~will~~ contains ~~such~~ conditions ~~as that~~ the Director determines will protect the existing surface uses and resources of the

~~s~~State. The permit applicant must pay ~~in advance~~ the fee required by Section 120 in advance of the permit being issued. (3-18-22)(    )

**022. LEASE ACQUISITION PROCESS.**

**01. Acquiring a Lease.** A Lease may be acquired for the exclusive right and privilege to explore for and produce ~~e~~Oil and ~~g~~Gas by oral auction, online auction, or such other method of competitive bidding, which is authorized by the Board, in its and, based on the Board's discretion, determined to be in the state's best interest, ~~of the state, and~~ The Lease will be awarded to the winning bidder at close of auction. The winning bidder at auction will be issued the Lease by the Department on the first day of the month following Final Board Approval. The Board and Department reserve the right to reject any or all nominations or bids, and expressly disclaim any liability for inconvenience or loss caused by errors that may occur concerning lease offerings. (3-18-22)(    )

**02. Lease Provisions.** (3-18-22)

**a.** Advance Annual Rental. The Lessee must pay to the state of Idaho an advance annual rental for each lease of three dollars (\$3) per acre with a minimum of two hundred fifty dollars (\$250) per Lease. (3-18-22)(    )

~~**b.** Diligent Drilling. Diligent and continuous drilling operations means no delay or cessation of drilling for a period greater than one hundred twenty (120) days, unless extended in writing by the Director. The Director must receive a written request for an extension at least ten (10) days prior to the expiration of the one hundred twenty (120) day period.~~ (3-18-22)

~~**eb.** Notification at End of Lease Period. The Lessee must notify the Director in writing prior to the expiration of the final year of his Lease that drilling or reworking operations has commenced on the leased premises, or on lands pooled or unitized therewith, and will extend beyond the expiration date of the Lease. Advance Annual Rental, ~~in the amount required by per~~ Section 022.a, for any additional and each succeeding year, must be received ~~by the Department~~ prior to the Lease's expiration date and entitles the Lessee to hold the Lease only as long as drilling or rework operations are pursued in accord with these rules. There will be no refund of unused rental.~~ (3-18-22)(    )

~~**dc.** Abandonment. During any additional or succeeding year of any Lease, cessation of production for a period of six (6) months, or cessation of continuous operations as provided in Section 055.03.b, is considered as an abandonment. The Lease will then automatically terminate at its next anniversary date unless the Director determines that such cessation of production or continuous operations is justified or the well meets the requirements of a shut in well under Subsection 022.02.ed.~~ (3-18-22)(    )

~~**e.** Suspension of Production. The Director may grant a suspension of production not to exceed one (1) year upon a written application showing that the lessee is unable to market oil or gas from a well located on the leased premises capable of oil and gas production in paying quantities due to a lack of suitable production facilities or a suitable market for the oil or gas and such conditions are outside the reasonable control of lessee and the lease is not being otherwise maintained in force and effect. If such well is shut in and the Director approves the application for suspension of production requirements prior to the expiration or termination of the lease, then the lease will be extended in accordance with the terms of Section 47-801, Idaho Code, for a period of one (1) year if the lessee timely submits an application in a form approved by the Director and, upon approval of said application, pays a shut-in royalty in the amount equal to double the annual rental provided for by these rules for each well capable of producing oil or gas in paying quantities. The lessee must remit the shut-in royalty payment while the lease is otherwise maintained in force and effect. Payment of shut-in royalty after the expiration or other termination of the lease will not revive or extend the lease. The Lessee may request continuation of this suspension of production, provided such request is received in writing by the Director at least thirty (30) days prior to the expiration date of the period of suspension.~~ (3-18-22)

~~**d.** Suspension of Production. The Director may grant a suspension of production after receiving a Lessee's written application. The Lessee must show: that they are unable to market Oil and Gas from a well located on the leased premises, which is capable of Oil and Gas Production in Paying Quantities, due to a lack of suitable production facilities, of a lack of a suitable market for Oil and Gas, and that such conditions are outside of the~~

reasonable control of the Lessee, and; that the Lease is being otherwise maintained in force and effect. The suspension of production cannot exceed one (1) year. The Lessee may request an extension of the suspension of production by submitting a written request to the Director at least thirty (30) days before the suspension period expires. If the well is shut in, and the Director approves the application for suspension of production prior to the expiration or termination of the Lease, then the Lease will be extended, per Section 47-801, Idaho Code, for a period of one (1) year if: (i) the well is shut in; (ii) the Lessee timely submits an application in a form approved by the Director, and; (iii) upon approval of said application, pays a shut-in royalty in the amount equal to double the annual rental, per Subsection 022.02.a, for each well capable of producing Oil or Gas in paying quantities. The Lessee must remit the shut-in royalty payment while the Lease is otherwise maintained in force and effect. Payment of shut-in royalty after the expiration or other termination of the Lease will not revive or extend the Lease. ( )

e. Water Rights. The Lessee will comply with all state laws and rules regulating the appropriation of water rights. No water rights developed or obtained by the Lessee in conjunction with operations under a Lease may be sold, assigned, or otherwise transferred without the Director's written approval. Upon surrender, termination, or expiration of the Lease, the Lessee must take all actions required by the Director to assign to the Board all water rights, including applications and permits, subject to applicable laws regarding the transfer or assignment of permits to appropriate water. ( )

**03. Nominating a Tract for Auction.** A Tract may be nominated for auction either by the Department or by application to the Department. ~~Nomination must be made~~ at least ninety (90) days prior to a Department-defined close of auction date, ~~or by Department nomination at least ninety (90) days prior to a Department-defined close of auction date.~~ Any qualified Person may nominate a Tract for lease auction by submitting a Department nomination form to the Department; and paying the nomination fee, ~~in an amount which is~~ determined by the Board, during regular business hours on the Department nomination form. Each nominated tract must be a maximum size of ~~six hundred forty (640) acres or one section. The nominating person may propose that multiple tracts be included in a single lease.~~ Each nomination for a Tract for auction is deemed an offer by the nominating Person to Lease the Tract for the advance annual rental amount, ~~as defined in per~~ Subsection 022.02.a. ~~above.~~ (3-18-22)( )

**04. Withdrawing a Tract for Auction.** Any person nominating a tract for auction. A Tract nomination may be withdrawn ~~their nomination by the nominator~~ if a written request for ~~such~~ withdrawal is received by the Department at least ten (10) business days prior to the ~~of auction.~~ auction's opening date. The nomination fee will not be refunded. (3-18-22)( )

**05. Auction Conditions.** The Department will determine the conditions associated with the auction, ~~which may including, but not limited to, the following include:~~ when, or if, a Tract will be offered for auction; whether the Tract is to be removed from the auction; whether multiple Tracts will be combined in a single Lease ~~at the discretion of the Department;~~ and any disclaimers, additional information, and any other such terms and conditions associated with the auction of the Tracts. Any such terms and conditions, disclaimers, and additional information will be posted on the Department's website. (3-18-22)( )

**06. Lease Information for Auction.** For each lease to be auctioned, the Department's website will provide ~~on the website the following:~~ a lease number designated by the Department; the legal description; the lease length; the number of acres; a minimum bid ~~per acre;~~ a lease template; any lease stipulations; any other lease information; ~~a specific date designated for the beginning and ending dates that a bidder may conduct due diligence;~~ and a specific date ~~designated for the opening of auction;~~ and a close of auction date, time, and location of the auction. A notice of lease auction will be published at least once per week for the four (4) consecutive weeks prior to the date of auction in a newspaper in general circulation in the county in which the nominated lease is located and in a newspaper in general circulation in Ada County. (3-18-22)( )

**07. Auction Procedure.** The Department will determine the procedures associated with the auction, ~~including, but not limited to place of auction, time of auction, and~~ such as the bidder registration procedure. Additional auction procedures are as follows: (3-18-22)( )

a. Bid Increments. The minimum bid increment is one dollar (\$1). (3-18-22)

b. Winning Bid. At close of auction, the winning bid ~~for a Lessee is the number of dollars bid multiplied by the number of acres in the lease, with fractions of an acre rounded up to the next whole acre~~ will be the

highest dollar amount offered by an auction participant. If, at close of auction, a bid for a lease has not been submitted by a bidder, then the lease will be awarded to the nominating applicant. ~~The entry of a bid~~ Entering a bid constitutes an enforceable contractual obligation. (3-18-22)(\_\_\_\_)

c. Amount Due. The amount due for a lease is the winning bid, plus the first year's annual rental amount, ~~as per Subsection 022.02.a., plus the nomination fee. If the nominator of the Tract(s) submits the winning bid was submitted by the nominator of the tract(s), then the nomination fee will already have been~~ will not be included in the amount due since the fee was already submitted to the Department ~~and will not be included in the amount due. The nominator~~ If the nominator is not the winning bidder, they will be refunded the nomination fee ~~if they are not the winning bidder.~~ (3-18-22)(\_\_\_\_)

d. Transfer of Funds. Unless otherwise required in the notice of auction, the winning bidder for each lease has five (5) full business days after the close of auction to complete the transfer of funds to the Department. Failure of the winning bidder to transfer funds within the specified period ~~specified~~ constitutes a breach of contract, and the state may pursue any action or remedy at law or in equity against the winning bidder. (3-18-22)(\_\_\_\_)

08. Execution of Lease. The completed lease ~~will~~ must be executed by the winning bidder within thirty (30) days from the date of mailing after the close of auction, or from the date of receipt if personally delivered to the applicant or ~~his~~ their agent by the Department, ~~within thirty (30) days from the date of receipt.~~ An individual who executes a lease on behalf of another Person must submit a power of attorney outlining such delegated authority. (3-18-22)(\_\_\_\_)

023. -- 044. (RESERVED)

045. ROYALTIES.

01. Royalty Payments. Unless otherwise specified by the Board, the Lessee will pay to the state of Idaho, in money or in kind, ~~to the state at its option~~ a royalty of no less than twelve and one-half percent (12.5%) of the eOil and/or gGas or nNatural gGas pPlant Liquids produced and saved. The Lessee will make payments in cash unless the state sends written instructions for payment in kind ~~are received from the state.~~ Royalty is due on all production from the leased premises except that which was consumed for the direct operation of the producing wells ~~and that or~~ lost through no fault of the Lessee. (3-18-22)(\_\_\_\_)

02. Royalty Not Reduced. ~~Where~~ If royalties are paid in cash, then costs of marketing, transporting and processing eOil and/or gGas or nNatural gGas pPlant Liquids, or all of them produced, are borne entirely by the Lessee, and such cost will not reduce the Lessor's royalty directly or indirectly. If the Director elects to take royalty in kind, ~~the state will reimburse~~ the Lessee will be reimbursed for reasonable additional storage and transportation costs. (3-18-22)(\_\_\_\_)

03. Oil, Gas, and Natural Gas Plant Liquids Royalty Calculation and Reporting. All royalty owed to the Lessor, ~~hereunder~~ and not paid in kind, ~~at the election of the lessor~~ will be paid to the Lessor in the following manner: (3-18-22)(\_\_\_\_)

a. Payment of royalty on production of eOil is due and must be received by the Lessor on or before the 65th day after the month of production; (3-18-22)(\_\_\_\_)

b. Payment of royalty on production of gGas and nNatural gGas pPlant Liquids is due and must be received by the lessor on or before the 95th day after the month of production; (3-18-22)(\_\_\_\_)

c. All royalty payments must be completed in the form and manner approved by the Department including, ~~but not limited to,~~ the gross amount and disposition of all eOil, gGas, and nNatural gGas pPlant Liquids produced and the market value of the eOil, gGas, and nNatural gGas pPlant Liquids; (3-18-22)(\_\_\_\_)

d. Lessee must maintain, and make available to the Lessor upon request, copies of all documents, records or reports confirming the gross production, disposition, and market value, ~~This including includes~~ gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of the amount produced and put into pipelines, tanks, ~~or~~ pools, ~~and~~ gas lines, or gas storage, and any other reports or records that the Lessor may require



to verify the gross production, disposition, and market value; and (3-18-22)(\_\_\_\_)

e. Each royalty payment must be accompanied by a check stub, schedule, summary or other remittance advice showing, by the assigned lessor lease number, the amount of royalty being paid on each lease stub that includes: all information required by Idaho Code § 47-332; a schedule, summary, or other remittance advice showing the Lease number; and the amount of royalty being paid on the Lease. (3-18-22)(\_\_\_\_)

~~04. **Overriding Royalty.** All assignments of overriding royalty without a working interest made directly by the lessee and not included with an assignment of lease must be filed with the Department with the processing fee within ninety (90) days from the date of execution; provided that it is the lessee's responsibility, and not the Department's, to process such assignments by third parties. Any assignment that creates an overriding royalty exceeds the royalty previously payable to the state by greater than five percent (5%), is deemed a violation of the terms of the lease unless such an assignment expressly provides that the obligation to pay such excess overriding royalty is suspended when the average production of oil per well per day, averaged on a monthly basis, is fifteen (15) barrels or less. Any assignment of overriding royalty without a working interest made directly by Lessee, from Lessee's working interest, and not included with an assignment of this Lease, must be filed with the Department, along with the processing fee, per Subsection 120.03, within ninety (90) calendar days from the date of execution of the valid assignment. It is Lessee's responsibility, not the Department's, to process and administer any overriding royalty. Any assignment that creates an overriding royalty that cumulatively exceeds the royalty payable to Lessor by greater than five percent (5%), is deemed a violation of this Lease, unless that assignment expressly provides that the obligation to pay the excess overriding royalty is suspended when the average production of oil per well per day, averaged on a monthly basis, is fifteen (15) barrels or less at sixty (60) °F at atmospheric pressure, or; the average Production of gas per day, averaged on a monthly basis, is 60,000 cubic feet (1,700 m<sup>3</sup>) or less at fourteen and seventy-three hundredths (14.73) pounds per square inch absolute and the standard temperature base of sixty (60) °F. A reservation or assignment of an overriding royalty will not relieve Lessee of any of Lessee's obligations for payment of Royalties to Lessor. Any reservation or assignment of overriding royalty by Lessee must terminate upon the termination of this Lease.~~ (3-18-22)(\_\_\_\_)

046. -- 049. (RESERVED)

#### 050. LAND USE, SURFACE RIGHTS AND OBLIGATIONS.

~~01. **Use and Occupancy.** Notwithstanding other leases for other uses of state lands, the lessee is entitled to use and occupy as much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration, drilling and production and marketing of oil and gas produced from the leased land, including the right to construct and maintain all works, buildings, plants, waterways, roads, communication lines, pipelines, reservoirs, tanks pumping stations or other structures necessary to full enjoyment and development; provided that lessee's operation does not unreasonably interfere with or endanger operations under any lease, license, claim, permit or other authorized, lawful use.~~ (3-18-22)

~~021. **Prevention of Injury or Damage.** The Lessee, its assignees, agents, and/or contractors must take all reasonable precautions to prevent injury or damage to persons, real and personal property, and to prevent waste or damage to the oil, gas, and other surface and subsurface natural resources and the surrounding environment including but not limited to, vegetation, livestock, fish and wildlife and their natural habitat, streams, rivers, lakes, timber, and forest and agricultural resources. The Lessee, his its assignees, agents, and/or contractors will compensate the Board, his its surface lessees, grantees, or contract purchasers for any damage resulting by reason of from their operations or any damage resulting from their failure to take all reasonable precautions to prevent injury or damage to persons, real and personal property, and to prevent waste or damage to the oil, gas, and other surface and subsurface natural resources and surrounding environment, as set forth above. The Lessee, its assignees, agents, and/or contractors must comply with all environmental laws, rules, and regulations as they pertain to its operation.~~ (3-18-22)(\_\_\_\_)

~~032. **Blowout or Spill.** The Lessee must report to the Director any blowout, fire, uncontrolled venting, or oil spill on the leased land within twenty-four (24) hours and confirm this report in writing within ten (10) days.~~ (3-18-22)(\_\_\_\_)

~~04. **Fences.** The lessee may not at any time fence any watering place upon leased lands where it is the only accessible and feasible watering place upon the lands within a radius of one (1) mile, without first having~~

~~secured the written consent of the Director.~~

~~(3-18-22)~~

**053. Timber Removal.** The Lessee may not unreasonably interfere with the removal of timber purchased prior or subsequent to the issuance of an eOil and gGas Lease. The Lessee may remove any timber required for ingress or egress or as otherwise necessary for operations. The Lessee must pay the current stumpage price, as determined by the Director for any timber cut or removed ~~on a current stumpage price basis as determined by the Director, and, Such proceeds therefrom accrue~~ go to the state agency that has custody and control over the leased lands. ~~(3-18-22)~~(\_\_\_\_)

**064. Potable Water Discovery.** If the Lessee finds only potable water in any well drilled for eExploration or production of oil and gas, and the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purposes, the Board may acquire the well with whatever casing is installed in the well at the casing's fair market value ~~of the casing upon the assumption by its surface lessee, grantee, or contract purchaser of surface lessee, grantee, or contract purchaser assuming~~ all future liabilities and responsibilities for the well, with the approval of the Commission, and if such acquisition is in compliance with Section 058; provided that the surface lessee, grantee, or contract purchaser also complies with applicable laws and rules of the Department of Water Resources. ~~(3-18-22)~~(\_\_\_\_)

**075. Reclamation.** The Lessee must reclaim all state Lands disturbed by its eExploration and operations so that they are, at least, consistent with previous use by the surface owner, This may including include segregating and protecting topsoil and regrading to approximate previous contour. If the Director has determined that substantial removal of topsoil has occurred ~~as determined by the Director,~~ the Lessee will replace the topsoil and revegetate to the extent necessary to minimize erosion. ~~(3-18-22)~~(\_\_\_\_)

**086. Entry by Director.** The Director is permitted, at all reasonable times, to go in and upon the leased lands and premises to inspect the operations and ~~the~~ products obtained and to post any lawful notice. The Director may, at any time, require that reasonable tests, surveys, samples, etc., be taken to assure compliance with these rules, in accord with ~~his~~ their instruction, without cost to the state of Idaho, to assure compliance with these rules. The Director may at any reasonable time and at state expense, inspect and copy ~~at his own expense~~ all of Lessee's books and records pertaining to a Lease under these rules. ~~Upon failure of lessee If the Lessee fails~~ to take timely, corrective measures, as ordered by the Director, ~~or the~~ Board, ~~or the e~~ Commission, bond forfeiture may occur and the Director may shut down Lessee's operations if ~~he~~ the Director determines they are unsafe or are causing or may cause waste or pollution to oil, gas, or other resources, or; or the Director may terminate the Lease and cause damage or unsafe conditions to be repaired or corrected, at the expense of the Lessee ~~and forfeiture of bond in accordance with these rules.~~ ~~(3-18-22)~~(\_\_\_\_)

~~09. Other Uses.~~ Subject to ~~Subsection 050.01,~~ ~~the Director may issue leases for other uses of state lands leased under these rules. All lessees have the right of reasonable ingress and egress at all times during the term of the lease.~~ ~~(3-18-22)~~

~~10. Disposal of Leased Lands.~~ The Board reserves the right to sell or otherwise dispose of the surface of the leased lands; provided that any sale of surface rights made subsequent to execution of the lease is subject to all terms and provisions of the oil and gas lease during its life including extensions and continuations under Section 040. ~~(3-18-22)~~

~~051. DILIGENT EXPLORATION REQUIRED.~~

~~The lessee must perform diligent exploration during the entire term of a lease. Diligent exploration means that the lessee provides continuing efforts as a reasonably prudent operator toward achieving production, including, without limitation, performing geological and geophysical surveys and/or the drilling of a test well.~~ ~~(3-18-22)~~

~~052~~1. -- 054. (RESERVED)

055. OPERATIONS UNDER THE LEASE.

01. **Best Practices.** The Lessee will, at all times, conduct exploration, development, drilling and all operations as a reasonably prudent operator and will conform to the best practice and engineering principles in use in the oil and gas industry. ~~(3-18-22)~~(\_\_\_\_)

~~02. Compliance with Rules. The lessee will comply with all rules of the oil and gas commission, including amendments promulgated pursuant to Title 67, Chapter 52, Idaho Code, and any violations of the commission's rules or other applicable state laws and rules may constitute a violation of the lease under these rules.~~ (3-18-22)

~~03. Designation of Operator. In all cases where~~ A designation of operator must be submitted to the Director prior to operations commencing when the operations are not conducted by the Lessee ~~but and~~ are to be conducted under authority of an approved operating agreement, assignment or other arrangement, ~~a designation of operator must be submitted to the Director prior to commencement of operations. Such a~~ The designation authorizes the operator, or ~~his~~ their local representative, to act for the Lessee and to sign any papers or reports ~~required under these rules.~~ The Lessee must immediately report all address changes and termination of an operator's authority to the Director ~~all changes of address and termination of the authority of the operator.~~ (3-18-22)( )

~~04. Legal Representative. When required by the Director, the lessee must designate a local representative empowered to receive service of civil or criminal process and notices and orders of the Director issued pursuant to these rules.~~ (3-18-22)

~~05. Diligence. The lessee will, subject to the right to surrender the lease, diligently drill and produce such wells as are necessary to protect the Board from loss by reason of production on other properties, or with the consent of the Director, compensate the Board for failure to drill and produce any such well. All wells under lease must be drilled, maintained and operated to produce the maximum amount of oil and/or gas that can be secured without injury to the well.~~ (3-18-22)( )

a. Lessee must diligently explore for the entire Lease. Diligent exploration means that the Lessee continually provides effort, as a reasonably prudent operator would, to achieving production on the leased premises or on lands pooled or unitized therewith, such as performing geological and geophysical surveys and/or drilling a test well. ( )

b. Following Lessee's diligent exploration, Lessee must engage in continuous drilling operations on the leased premises or on lands pooled or unitized therewith during the remaining Lease term or any extension of the Lease pursuant to Section 022.02.b. until Production in Paying Quantities is achieved. This means there is to be no delay or cessation of drilling for more than one hundred twenty (120) days, unless an extension is granted by the Director in writing. The Director must receive a written request for the extension at least then (10) days prior to the one hundred twenty (120) day period ending. ( )

c. All wells under a Lease must be drilled, maintained, and operated to produce the maximum amount of oil and/or gas possible, without injury to the well. The Lessee will, subject to the right to surrender the Lease, diligently drill and produce as many wells as necessary to protect the Board from loss resulting from production on other properties. The Lessee may, with the Director's written consent, compensate the Board for failure to drill and produce such wells. ( )

~~06. Loss Through Waste or Failure to Produce. The~~ If there is loss through waste or failure to drill and produce protection wells on the leased lands, the Director will determine the value of production accruing to the Board ~~where there is loss through waste or failure to drill and produce protection wells on the leased lands~~ and the compensation due to the Board as reimbursement for such loss. Payment for such losses must be made within sixty (60) days after the date of billing. The value of production resulting from a loss through waste or failure to take corrective measures to protect a well is calculated at ninety percent (90%) of the last year's actual production royalty or a minimum royalty of five dollars (\$5) per acre or fraction thereof, whichever is greater. (3-18-22)( )

~~07. By-Products. Where production, use of conversion of eOil and gGas under a Lease, is susceptible of producing a valuable by-product(s) or by-products, including, without limitation, commercially demineralized water, carbon dioxide, or helium, the Lessee must submit to the Director all available information concerning the potential by-product(s). The Department may conduct tests or studies, at its expense, and may issue reasonable orders to produce and preserve such by-product(s).~~ (3-18-22)( )

~~08. Geothermal Information. Prior to abandoning any well, the Lessee must submit to the Director~~

all available information concerning geothermal resource potential. The Department may conduct tests or studies, at its expense, prior to the abandoning of any well to determine geothermal resource potential. Except as provided in Subsection ~~040.05 022.02.d.~~, the Hessee must promptly plug and abandon any well on the leased land that is not used or useful, in accord with these rules, ~~and the Commission's rules of the commission,~~ and any applicable rules and regulations of the Department of Water Resources. When drilling in a known geothermal resources area, the applicant Lessee may need a geothermal resource well permit from the Department of Water Resources. (3-18-22)(    )

**056. WATER RIGHTS.**

~~The lessee will comply with all state laws and rules regulating the appropriation of water rights. No water rights developed or obtained by the lessee in conjunction with operations under a lease may be sold, assigned or otherwise transferred without written approval of the Director. Upon surrender, termination or expiration of the lease, the lessee must take all actions required by the Director to assign to the Board all water rights, including applications and permits, subject to applicable laws regarding the transfer or assignment of permits to appropriate water.~~ (3-18-22)

**057. -- 059. (RESERVED)**

**060. ASSIGNMENTS.**

**01. Prior Written Approval.** No Hlease assignment is valid ~~until unless~~ approved by the Director in writing ~~by the Director, and no.~~ The assignment does not takes effect until the first day of the month following its approval. (3-18-22)(    )

**02. Qualified Assignee.** A Hlease may be assigned to any qualified person ~~qualified to hold a state lease,~~ provided that in the event an assignment partitions leased lands between two (2) or more persons, neither the assigned nor the retained part created by the assignment may contain less than forty (40) acres or a government lot, whichever is less. (3-18-22)(    )

**03. Responsibilities.** In an assignment of the complete interest of the leasehold, the assignor and ~~his~~ their surety must continue to comply with the Hlease and these rules until the effective date of the assignment. After the effective date of any assignment, the assignee and ~~his~~ their surety are bound by the Hlease ~~and these rules~~ to the same extent as if the assignee were the original Hessee, notwithstanding any conditions in the assignment to the contrary; however, the assignor-lessee remains liable for rentals and royalties due and damages accruing prior to the effective date of the assignment. (3-18-22)(    )

**04. Segregation of Assignment.** If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated Hleases continue in full force and effect for the balance of the ten-year term of the original Hlease or as further extended pursuant to these rules. (3-18-22)(    )

**05. Joint Principal.** Where an assignment does not segregate the record title to the Hlease, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. The application must be accompanied by a consent of assignor's surety to remain bound under the bond of record, if the bond by its terms does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement. (3-18-22)(    )

**06. Form of Assignment.** An assignment is a valid legal instrument, properly executed and acknowledged, setting forth the number of the Hlease, a legal description of the land involved, the name and address of the assignee, the interest transferred and the consideration. A fully executed copy of the instrument of assignment must be filed with the application for approval pursuant to Subsection 060.07. An assignment may affect or concern more than one (1) Hlease. (3-18-22)(    )

**07. Application.** The application for approval of an assignment must be submitted ~~in duplicate~~ on Department forms ~~of the Department or exact copies of such forms.~~ The "lessee/assignee of record" must be designated in accordance with Subsection 010.11. If payments out of production are reserved, a statement must be submitted stating the amount, method of payment, and other pertinent items. The statement must be filed with the Department no later than fifteen (15) days after the filing of the application for approval of an assignment. (3-18-22)(    )

08. **Denial.** The Director may deny an application for assignment if the Lessee or the assignee is delinquent in payment of rentals or royalties or ~~otherwise~~ has otherwise violated these rules. (3-18-22)(    )

09. **Fee.** All applications for approval of assignment must be accompanied by the fee required by Section 120. (3-18-22)

061. -- 069. (RESERVED)

070. SURRENDER - RELINQUISHMENT.

01. **Procedure.** The Lessee may surrender its Lease, or any surveyed subdivision of the area covered by such Lease, by filing a written relinquishment with the Department, ~~provided that a~~ A partial relinquishment ~~does~~ may not reduce the remaining acreage in the Lease to less than forty (40) acres or a government lot, whichever is less. The Director may waive the minimum acreage ~~provision of this rule~~ requirement if ~~he finds~~ it is found to be justified on the basis of exploratory and development data derived from activity on the leasehold. (3-18-22)(    )

02. **Effective Date.** A relinquishment takes effect thirty (30) days after it is received by the Department. ~~Thereafter~~ After effective relinquishment, the Lessee is relieved of liability under these rules except for the continued obligation of the Lessee and ~~his~~ their surety to: (3-18-22)(    )

a. Make payments of all accrued rentals and royalties; (3-18-22)

b. Place all wells on the relinquished land ~~to be relinquished~~ in a condition for suspension of operations or abandonment; (3-18-22)(    )

c. Comply with all of the Commission's rules ~~of the commission~~ for plugging of abandoned wells; (3-18-22)(    )

d. Comply with applicable laws and rules of the Department of Water Resources; and (3-18-22)

e. Reclaim the surface and natural resources in accord with these rules. (3-18-22)

03. **Partial Surrender.** In the event of a partial surrender ~~of the land covered by such lease,~~ the annual rental ~~thereafter payable~~ rate will be reduced proportionately. (3-18-22)(    )

071. TERMINATION - CANCELLATION OF LEASE.

01. **Cause.** Except as otherwise provided in these rules, the Director may terminate the Lease for any substantial violation of ~~these rules, the lease, or the rules of the commission, ninety (90) days after notice of the violation has been given to lessee by personal service or by certified mail to the lessee, unless~~ the Lease ninety (90) days after notice of the violation has been given to Lessee by personal service or certified mail, in which case notice is deemed served upon mailing, unless: (3-18-22)(    )

a. The violation has been corrected; or (3-18-22)

b. The violation is one that cannot be corrected within the notice period and the Lessee has in good faith commenced ~~within the notice period to~~ correcting the violation, within the notice period, and diligently proceeds diligently to complete corrective action, within ~~a~~ the time period set by the Director. ~~If sent by certified mail, such notice will be deemed served upon mailing.~~ (3-18-22)(    )

02. **Surrender After Termination.** Upon the expiration or termination of the Lease, the Lessee will quietly and peaceably surrender possession of the premises to the state. ~~Thereafter, lessee's obligations under these rules that have accrued prior to the date of expiration or termination continue in full force and effect~~ Such surrender does not relieve the Lessee of liabilities that may have accrued in connection with the Lease prior to the surrendering. (3-18-22)(    )

**03. Other Wells.** Default by the Lessee in ~~the performance of~~ performing any of the Lease's conditions or provisions ~~of the lease~~ concerning a well(s) ~~or wells~~ on any Legal subdivision of the leasehold do not affect the right of the Lessee to continue the possession or operation of any other well(s) ~~or wells~~, that are situated upon any other Legal subdivision of the leasehold. ~~The term "legal subdivision" as herein used means a subdivision as established by the United States land survey that most nearly approximates in size the area allocated to one well under any approved well spacing program; provided that if no special program has been approved, "legal subdivision" means the parcel upon which such well is located, but in any event not less than forty (40) acres surrounding such well.~~ Where such a default involving one (1) or more well(s) results in cancellation, and the Lessee has other wells on the Lease, which are not in default, such cancellation will result in the division of the defaulting acreage from the Lease and resultant reduction in the size of the Lease held by the Lessee. (3-18-22)(    )

**04. Equipment Removal.** Upon the expiration of the Lease, ~~or its earlier termination~~, or surrender ~~pursuant to these rules~~, the Lessee must, ~~within a period of ninety (90) days~~, remove from the premises all materials, tools, appliances, machinery, structures. The Lessee must do so within ninety (90) days or within the extension that may be granted because of adverse climatic conditions. Equipment subject to removal but not removed ~~within the ninety (90) day period or any extension that may be granted because of adverse climatic conditions during that period~~ within the allotted time, may, at the option of the Director, become property of the state of Idaho, or the Director may cause the property to be removed at the Lessee's expense. (3-18-22)(    )

**072. -- 079. (RESERVED)**

**080. BOND REQUIREMENTS.**

**01. Minimum Bond.** Prior to ~~entry with m~~ Motorized exploration ~~equipment up~~ on leased lands, the surface of which has been sold or leased, the Lessee must submit to the Director a corporate surety bond or collateral bond in the amount of one thousand dollars (\$1,000) in favor of the state of Idaho conditioned upon the payment of all damages to the surface that result from the Lessee's operation. Prior to entry upon the leased land with drilling equipment or prior to commencing any construction in preparation for drilling upon leased lands, the Lessee must submit to the Director a corporate security bond or collateral bond in the amount of six thousand dollars (\$6,000) in favor of the state of Idaho ~~bond will be~~ conditioned upon compliance with the Lease, these rules, ~~the removal of all materials, etc. per Subsection 071.04,~~ and the payment of all damages to the land surface and all improvements thereon, including crops, which result from the Lessee's operation, regardless of whether the lands under this Lease have been sold or leased by the Board for any other purpose. This bond is in addition to the drilling bond pursuant to the eCommission's rules. This rule notwithstanding, the ~~oil and gas~~ Lessee may be required, on a case-by-case basis, to post a bond ~~in excess of that exceeds~~ six thousand dollars (\$6,000) to protect a surface lessee's or surface owner's interests, pursuant to per Section 47-708, Idaho Code. (3-18-22)(    )

**02. Statewide Bond.** In lieu of the aforementioned bonds, the Lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars (\$50,000) in favor of the state of Idaho to cover all Lessee's Lease and operations carried ~~on~~ out under these rules. (3-18-22)(    )

**03. Period of Liability.** The period of liability of any bond is not to be terminated until all obligations under the Lease and these rules have been fulfilled and the bond is released in writing by the Director. (3-18-22)(    )

**04. Form of Performance Bond.** (3-18-22)

**a.** Corporate surety bond means an indemnity agreement executed by or for the Lessee and a corporate surety licensed to do business in the state of Idaho on an an Department ~~o~~Oil and gGas Lease ~~b~~Bond form, supplied by the Department conditioned in accord with Subsection 080.01, and payable to the state of Idaho. (3-18-22)(    )

**b.** Collateral bond means an indemnity agreement executed by or for the Lessee and payable to the state of Idaho, pledging cash deposits, negotiable bonds of the United States, state or municipalities, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds are subject to the following conditions: The Department obtains possession and deposits such with the state treasurer. The Department will value collateral at its current market value, not face value. Certificates of deposit are made payable to the "State of Idaho or

the lessee.” Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. Banks issuing such certificates waive all rights of set-off or liens that they have of may have against such certificates. Any such certificates are automatically renewable. The certificate of deposit must be of sufficient amount to ensure that the Department would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond including any penalty for early withdrawal. (3-18-22)( )

**05. Bond Cancellation.** Any surety company or indemnitor canceling a bond must give the Department at least sixty-days’ (60) notice prior to cancellation. The Department will not release a surety or indemnitor from liability under existing bonds until the Lessee has submitted to the Department an acceptable replacement bond. Such replacement bond must cover any liability accrued against the bonded principal on the Lease covered by the previous bond. (3-18-22)( )

**06. Surety License.** If the license to do business in Idaho of any surety is suspended or revoked, the Lessee must find a substitute for such surety within thirty (30) days after notice by the Department. If the lessee fails to secure a substitute surety, ~~he they~~ must cease operations ~~upon under~~ the Lease. The substitute surety must be licensed to do business in Idaho. (3-18-22)( )

**07. Form.** All bonds furnished must be on the Department bond form ~~or exact copy of it.~~ (3-18-22)( )

**081. -- 089. (RESERVED)**

**090. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.**

**01. Unit Plan.** For the purpose of properly conserving the natural resources of any ~~e~~Oil and ~~g~~Gas pool, field, or like area, the Lessee may, with the Director’s written consent ~~of the Director,~~ commit the leased lands to a unit, cooperative or other plan of development or operation with other state, federal, Indian, or privately-owned lands. (3-18-22)( )

**02. Contents.** An agreement to unitize must: describe the separate ~~t~~Tracts comprising the unit; disclose the apportionment of the production of royalties and costs to the several parties; disclose the name of the operation; and contain adequate provisions for the protection of the interests of all parties, including the state. The agreement must: be signed by or ~~in~~ on behalf of those ~~p~~Persons ~~or entities~~ having effective control of the geologic structure; be submitted to the Director with the application to unitize; ~~and. The agreement is~~ effective only after approval by the Director. (3-18-22)( )

**03. Interested Parties.** The owners of any right, title, or interest in the ~~e~~Oil and ~~g~~Gas resources to be developed or operated under an agreement may be regarded as interested parties to a proposed unitization agreement. Signature of a party with only an overriding royalty interest in unnecessary. (3-18-22)( )

**04. Collective Bond.** In lieu of separate bonds for each Lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a collateral bond, conditioned upon faithful performance of the duties and obligations of the agreement, the Lease that is subject to the agreement and these rules. The liability under the bond will be for such amount the Director determines to be adequate to protect the state’s interests ~~of the state.~~ If the unit operator is changed, a new bond or consent of surety to the change in principal under the existing bond must be filed within thirty (30) days of assignment. (3-18-22)( )

**05. Lease Modification.** The terms of any Lease included in any cooperative or unit plan of development or operation may be modified by the Director with approval of the Lessee, except that a unit agreement must have final approval by the Director for a state cooperative plan or the final approval by the secretary of interior for a federal cooperative plan prior to extending any Lease into its eleventh year and each year thereafter. A Lease so extended expires two (2) years after the unit plan expires provided the Lessee continues to pay the annual rental, ~~as outlined in per~~ Subsection ~~041.03~~ 022.02.a. (3-18-22)( )

**06. Rentals.** Rentals and royalties on Lleases so extended are at the rates specified in these rules. Advanced rental must be paid on or before the extended Lease’s anniversary date. Any unused portion of annual

rental will not be refunded.

(3-18-22)(\_\_\_\_)

**07. Evidence of Agreement.** Before issuance of a Lease for lands within an approved unit agreement, the Lease applicant must file with the Department evidence that ~~he has~~ they have entered into an agreement with the unit operator for the development and operation of the lands in a Lease, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the applicant will be permitted to operate independently but be required to perform its operations in a manner that the Director deems to be consistent with the unit operations.

(3-18-22)(\_\_\_\_)

**08. Segregation Prohibited.** A Lease may not be segregated if any part thereof is included in a cooperative plan until the pool or field has been defined. Once defined, those areas outside the unit area or pool boundary can be surrendered as provided in Section 070.

(3-18-22)(\_\_\_\_)

**091. -- 094. (RESERVED)**

**095. LIABILITY INSURANCE; SPECIAL ENDORSEMENTS.**

**01. Liability Insurance Required.** ~~Prior to entry upon the leased lands for any reason other than casual exploration or inspection pursuant to Section 021, the lessee must secure and maintain during the term of this lease, public liability, property damage, and products liability insurance in the sum of four hundred thousand dollars (\$400,000) for injury or death for each occurrence; in the aggregate sum of two million dollars (\$2,000,000) for injury or death; and in the sum of four hundred thousand dollars (\$400,000) for damages to property and products damages caused by any occupancy, use, operations of any other activity on leased lands carried on by the lessee, its assigns, agents, operators or contractors. The lessee must insure against explosion, blow out, collapse, fire, oil spill and underground hazards and submit evidence of such insurance to the Director. If the land surface and improvements thereon covered by the lease have been sold or leased by the state of Idaho, the owner or lessee of the surface rights and improvements will be an additional named insured. The state of Idaho is a named insured in all instances. This policy or policies of liability insurance must contain the following special endorsement:~~

~~“The state of Idaho, the Idaho State Board of Land Commissioners, the Director of the Department of Lands, the Department of Lands, (or other state agency exercising custody and control over the lands), and (herein insert name of owner or lessee of surface rights, if applicable) and the officers, employees and agents of each and every of the foregoing are additional insureds under the terms of this policy: Provided, however, these additional insureds shall not be insured hereunder for any primary negligence or misconduct on their part, but such additional insureds shall be insured hereunder for secondary negligence or misconduct, which shall be limited to failure to discover and cause to be corrected the negligence or misconduct of the lessee, its agents, operators or contractors. This insurance policy shall not be canceled without thirty (30) days prior written notice to the Idaho Department of Lands. None of the foregoing additional insureds is liable for the payment of premiums or assessments of this policy.”~~

~~No cancellation provision in any insurance policy is in derogation of the continuous duty of the lessee to furnish insurance during the term of this lease. Such policy or policies must be underwritten to the satisfaction of the Director. A signed complete certificate of insurance, with the endorsement required by this paragraph, must be submitted to the Director prior to entry upon the leased land with motorized exploration equipment after award of a lease and may be required prior to such entry under Rule 021. Prior to entry upon the leased lands for purposed other than Casual Exploration or inspection, the Lessee is required to purchase and maintain suitable insurance for the duration of the Lease.~~

(3-18-22)(\_\_\_\_)

**02. Certificate of Insurance.** ~~At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with the endorsement required by Subsection 095.01, showing that such insurance coverage has been renewed or extended, must be filed with the Director. No work under this Lease will commence prior to the Department's receipt of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. Further, such certificate must reflect that no change or cancellation in such coverage will become effective until after the Department receives written notice of such change or cancellation.~~

(3-18-22)(\_\_\_\_)

**096. HOLD HARMLESS.**

~~The state of Idaho, the Board, the Director, the Department, and any other state agency that may have custody or~~



~~control of the leased lands, and the owner of the surface rights and improvements, if not the state of Idaho, or state lessee of surface rights, if there be one, the officers, agents and employees of each of the foregoing, are free from any and all liabilities and claims for damages and/or suits for or by reason of death or injury to any person or damage of property of any kind whatsoever, caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors; and lessee covenants and agrees to indemnify and to save harmless the state of Idaho, the Board, the Director, the Department, or other state agency, or the lessee of surface rights if there be one, and their officers, agents, and employees from all liabilities, charges, expense, including attorney fees, claims, suits or losses caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors. The lessee's signature to a lease under these rules constitutes express agreement to this rule.~~ (3-18-22)

~~097~~**6.** -- 099. (RESERVED)

**100. TITLE.**

The state of Idaho does not warrant title to the leased lands or the ~~e~~**O**il and ~~g~~**G**as resources that may be discovered thereon; the ~~l~~**L**ease is issued only under such title as the state of Idaho may have as of the ~~Lease's~~**Lease's** effective date ~~of the lease~~ or thereafter acquires. (3-18-22)(    )

~~101.~~ **IMPOSSIBILITY OF PERFORMANCE.**

~~Whenever, as a result of any act of God, or law, order or regulation of any governmental agency, it becomes impossible for the lessee to perform or to comply with any obligation under the lease or these rules, other than payment of rentals or royalties, the Director in his discretion, may by written order excuse lessee from damages or forfeiture of the lease, and the lessee's obligations may be suspended and the term of the lease may be extended provided that the Director finds that good cause exists.~~ (3-18-22)

~~102.~~ **TAXES.**

~~The lessee pays, when due, all taxes and assessments of any kind lawfully assessed and levied against the lessee's interest or operations under the laws of the state of Idaho.~~ (3-18-22)

~~103~~**1.** -- 119. (RESERVED)

**120. FEES.**

**01. Exploration Permit.** One hundred dollars (\$100) per linear mile or a minimum of one hundred dollars (\$100) per section. (3-18-22)

**02. Nonrefundable Nomination Fee.** The nomination fee is set by the Board at a minimum of two hundred fifty dollars (\$250) per ~~t~~**T**ract. (3-18-22)(    )

**03. Processing Fee.** The processing fee is set by the Board at a minimum of one hundred dollars (\$100) per each document. (3-18-22)

**04. Fee Adjustment.** The Board may annually adjust these fees without formal rulemaking procedures. (3-18-22)

**121. -- 999. (RESERVED)**

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION**  
**DOCKET NO. 20-0401-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2024 and legislative review in 2025 with the goal of simplifying and streamlining the rules for increased clarity and ease of use. The rule provides standards for forest fire protection, non-fee, burn permitting, and for firefighting water supply and tool requirements for Forest Operations.

**FEE SUMMARY:** N/A

**FISCAL IMPACT:** None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted and concluded February 22, 2024. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the October 4, 2023 Idaho Administrative Bulletin, [Vol. 23-10, page 512](#).

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

The San Dimas Technology & Development Center (SDTDC) Spark Arrestor Guide is a US Forest Service standard applied to spark arrestors for internal combustion engines used on lands administered by the Forest Service, other Federal agencies and most States and municipalities.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Brooke Heasty at [bheasty@idl.idaho.gov](mailto:bheasty@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 3rd day of June, 2024.

Joshua J. Harvey  
Fire Management Chief  
Forestry and Fire Division  
Idaho Department of Lands  
3284 W Industrial Loop  
Coeur d'Alene, Idaho, 83815  
Phone: (208) 666-8650, Fax: (208) 769-1524

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0401-2401**  
**(ZBR Chapter Rewrite.)**

**20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION**

**000. AUTHORITY.**

This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. (3-31-22)

**001. TITLE AND SCOPE.**

~~01. Title.~~ These rules are titled IDAPA 20.04.01, “Rules Pertaining to Forest Fire Protection.” and implement the provisions of Title 38 Chapter 1, Idaho Code. They provide (3-31-22)

~~02. Scope.~~ These rules govern requirements standards pertaining to for forest fire protection, permitting, and for firefighting water supply and tool requirements for Forest Operations. (3-31-22)( )

**002. INCORPORATION BY REFERENCE.**

**01. Incorporated Document.** IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). (3-31-22)

**a.** Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. (3-31-22)

**b.** Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. (3-31-22)

**c.** Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. (3-31-22)

**02. Printed and Bound Copies.** Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. (3-31-22)

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The terms Fire Warden, Forest Land, Forest Products, Person, Range Land, Slash, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act, the following definitions apply to these rules: ( )

**01. Block.** A piece of logging equipment where steel rope or cable ~~is actively turning~~ turns the block’s pulley ~~and used~~ as part of a cable logging yarding system. ~~for the specific purposes of establishing~~ It is used to install tail hold anchor points, intermediate support of main lines, or carriage haul-back capability ~~for the purposes of for~~ yarding or hauling ~~of trees or~~ logs to a log landing ~~for transportation to a mill or processing facility.~~ (3-31-22)( )

**02. Cable or Cable Assisted Logging.** A harvest system for felling or yarding ~~of forest product materials consisting of the use of~~ trees or logs for transport to a landing using a cable assisted harvester or ~~the use of~~ a yarder, spar tree, or intermediate support with a motorized or non-motorized carriage ~~to transport logs to the landing for further processing purposes.~~ (3-31-22)( )

**03. Closed Fire Season.** The calendar period from May 10 to October 20, ~~inclusive, of each year~~ or as

designated by the Director, due to conditions of unusual fire danger ~~pursuant to~~, when a permit is required to burn under Section 38-115, Idaho Code. (3-31-22)( )

- 04. Department.** The Idaho Department of Lands. (3-31-22)
- 05. Director.** The ~~d~~Director of the Idaho Department of Lands ~~or his authorized representative or their designee.~~ (3-31-22)( )
- 06. District.** A designated forest protective district under Section 38-110, Idaho Code. (3-31-22)( )
- 07. Fire Warden.** A duly appointed fire warden or deputy. (3-31-22)
- 08. Forest Land.** Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property. (3-31-22)
- 097. Forest Operation.** An activity or service conducted on ~~f~~Forest ~~l~~ands involving any of the operations as described below where a Certificate of Compliance ~~is required pursuant to Section 38-122, Idaho Code. Fire Hazard Management Agreement and/or Forest Practice Notification are required under Sections 38-122, 38-404, and 38-1306, Idaho Code:~~ (3-31-22)( )
  - a.** The harvesting of trees ~~using equipment that includes, but is not limited to,~~ including felling, bucking, yarding, delimiting, and decking ~~operations;~~ (3-31-22)( )
  - b.** Thinning or mastication operations for stand improvement, stand density management or fuel reduction ~~purposes;~~ (3-31-22)( )
  - c.** Road construction or reconstruction ~~of existing roads~~ including installation or improvement of bridges, culverts, ~~or structures;~~ and or (3-31-22)( )
  - d.** Slash management including chipping, grinding, or other mechanized reduction activities. (3-31-22)
- 1008. Metal-Tracked Harvester.** Any machine with metal tracks used to fall, bunch, ~~or process trees into forest products~~ at the stump. (3-31-22)( )
- 1109. Operator.** A ~~p~~Person who conducts a ~~f~~Forest ~~e~~Operation. (3-31-22)( )
- 120. Operating Area.** ~~That~~ The area where a ~~f~~Forest ~~e~~Operation ~~is taking place~~ occurs. (3-31-22)( )
- 13. Person.** ~~Includes any person or persons, and any corporation, firm or other entity.~~ (3-31-22)
- 14. Range Land.** Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land. (3-31-22)
- 15. Slash.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter. (3-31-22)
- 16. State.** State of Idaho. (3-31-22)

**011. SPARK ARRESTER REQUIREMENTS AND EXEMPTIONS.**

**01. Requirements.** The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with

the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." ( )

02. Exemptions. The following are exempt from the requirements of the rule: ( )

a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the combustion gases exhaust through the turbo-charger; ( )

b. Engines of passenger-carrying vehicles and light trucks, kept in good repair, equipped with baffle-type muffler and tailpipe which exhaust all combustion gases; ( )

c. Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle; ( )

d. Engines of water pumping equipment used in firefighting; and ( )

e. Engines of helicopters and other aircraft. ( )

0142. -- 019. (RESERVED)

**020. VARIANCE FROM RULE FOR ALTERNATE PRACTICES.**

If conditions or activities require the application of To apply practices that differ from those prescribed in these rules, the Operator must first obtain a variance prior to employing any of those differing practices. (3-31-22)( )

01. Obtaining a Variance. In order to obtain a variance, the Operator must submit a written request for a variance to the local District Fire Warden. The request must include, which includes the following: (3-31-22)( )

a. A description of the specific Operating Area where the variance is being requested applies; (3-31-22)( )

b. The particular conditions that necessitate a variance; (3-31-22)( )

c. A detailed description of the alternative practice; and (3-31-22)( )

d. A detailed description of how the alternate practice, if applied, will provide fire protection that is equal to or greater no less than the fire protection provided by the standards set forth in these rules. (3-31-22)( )

02. Department Response to Request for Variance. Within five (5) business days from receipt of the variance request, the Department will evaluate the request and notify the Operator in writing of the Department's determination to allow or disallow the variance request its decision. (3-31-22)( )

021. -- 029. (RESERVED)

**030. STANDARDS FOR FIRE PROTECTION BY INDIVIDUALS.**

The following rules and standards for apply to protection by owners of Forest Land and who have elected to provide their own protection as provided by under Section 38-111, Idaho Code, apply: (3-31-22)( )

01. Fire Plans. Each owner Before April 1 of each year, Forest Land owners must submit a written fire plan to the Director for approval, through the (through the district Fire Warden in charge of the District in which the such Forest Land lies, before April 1, of each year, a written fire plan that includes, but is not limited to lies) that includes: (3-31-22)( )

a. A map, with (on a scale of two (2) inches to the mile), revealing showing section, township, and range lines, of the forest land involved and showing thereon roads, streams, trails, and the location of protection facilities for such land of the Forest Land involved; (3-31-22)( )

b. A description of the system for discovering and reporting any and all fires originating on or

spreading to the ~~f~~Forest ~~L~~and involved.; (3-31-22)(\_\_\_\_)

c. ~~As~~Statements ~~showing~~ describing the following: (\_\_\_\_)

i. ~~+~~The number of firefighters and their sources of additional firefighter manpower available for immediate action to suppress any fire on the ~~f~~Forest ~~L~~and; ~~and further, their sources of additional manpower available as firefighters.;~~ (3-31-22)(\_\_\_\_)

dii. ~~A statement showing +~~The type and amount of firefighting equipment in serviceable condition including, ~~but not limited to,~~ fire hose, fire engines, portable pumps, dozers, and mobile ~~equipment for the transportation of men and equipment for firefighting equipment and manpower.~~ (3-31-22)(\_\_\_\_)

eiii. ~~A statement as to +~~The location of fire-tool caches and the number and kind of serviceable hand tools in each cache kept available for immediate use in firefighting, (including shovels, hoes, axes, and fire-pump cans) kept available for immediate firefighting use.; (3-31-22)(\_\_\_\_)

iv. For protection facilities, the name, address, and telephone number of the person in charge and obligated to carry out the provisions of the fire plan; (\_\_\_\_)

f. ~~The name, address, and telephone number of the person who is in charge of the protection facilities and obligated to carry out the provisions of the fire plan.~~ (3-31-22)

02. **Approval of Fire Plan Required.** ~~No~~ Only plans approved by the Director will become ~~are~~ effective ~~unless approved by the director.~~ (3-31-22)(\_\_\_\_)

031. -- 039. (RESERVED)

040. **COSTS OF FIRE SUPPRESSION AND PROTECTION FOR WILLFULL OR NEGLIGENT FIRES.**

~~Whenever the state incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such costs include all actual costs to the state, including wages of full-time personnel and use of equipment of the forest protective district or districts where the fire originated or burned~~ Costs, which are incurred by the State or its authorized agencies to control or extinguish a fire that any Person is willfully or negligently responsible for, are all actual costs including wages of personnel and use of equipment. (3-31-22)(\_\_\_\_)

041. -- 049. (RESERVED)

050. **BURNERS REFUSE WOOD BURNING NEAR FOREST LAND.**

Any saw mill, planing mill, shingle mill, or other woodworking ~~plant,~~ or plant wood product manufacturing ~~wood products plant,~~ operating in or within five hundred (500) feet of ~~f~~Forest ~~L~~and; and burning refuse wood material outside of and/or adjacent to ~~such the~~ mill or plant, will must meet the terms of Section 38-108, Idaho Code and other applicable state and local laws and regulations. (3-31-22)(\_\_\_\_)

051. -- 059. (RESERVED)

060. **BURNING PERMITS DURING CLOSED FIRE SEASON.**

The burning permit ~~specified in under~~ Section 38-115, Idaho Code, ~~is used to~~ protect public health, safety, and welfare. The permit and is subject to the following conditions: (3-31-22)(\_\_\_\_)

01. **When Permit Required.** Permits issued for open fires are required from May 10 ~~to~~ through October 20, ~~inclusive,~~ of each year and are limited to ~~that the~~ period of time needed to accomplish the permitted burning; provided, ~~however, in that~~ no event ~~will such~~ permit will be issued to cover a period of more than ten (10) days. (3-31-22)(\_\_\_\_)

02. **Permit Conditions.** Each permit contains ~~all~~ the terms and conditions deemed necessary by the ~~d~~Director for ~~such~~ burning; ~~which~~ Such terms and conditions remain effective for the entire period of the permit. (3-31-22)(\_\_\_\_)

061. -- 069. (RESERVED)

070. PERMIT TO ENTER ~~AREAS CLOSED~~ **AREA DUE TO FIRE HAZARD.**

~~Pursuant to Under~~ Section 38-115, Idaho Code, the ~~d~~Director, ~~because of critical fire hazard,~~ may close specified areas to entry by any ~~p~~Person or party, ~~because of critical fire hazard.~~ (3-31-22)(    )

01. **Notice of Closure.** Notice of closure to specified areas ~~will be~~ **is** by Director proclamation ~~of the director and will be published at least once in a newspaper of general circulation and is communicated to the Fire Wardens of the affected Districts and the public~~ throughout the county or counties affected **in the most effective way available.** ~~Such proclamation will immediately be mailed to the fire wardens of the affected districts.~~ (3-31-22)(    )

02. **Fire Warden Permits.** The ~~f~~Fire ~~w~~Warden ~~in charge~~ of the forest protective ~~d~~ District ~~in which such areas are located~~ **with a closed area** may, ~~in his~~ **at their** discretion, issue permits to ~~individuals~~ **a Person** to enter ~~such~~ closed areas. The permittee ~~is required to~~ **must** carry a copy of the permit ~~at all times~~ while in the closed area. (3-31-22)(    )

071. -- 079. (RESERVED)

080. ~~SPARK ARRESTERS~~ **SMOKING PROHIBITIONS IN THE WOODS.**

01. **Requirements** ~~Smoking.~~ The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." ~~Smoking is prohibited on Forest or Range Land during periods of critical fire danger as proclaimed by the Director. Logging Operators must post conspicuous "NO SMOKING" signs in their camps and Operating Areas during these periods.~~ (3-31-22)(    )

02. **Exemptions** ~~Designating Smoking Areas.~~ The following are exempt from the requirements of the rule: ~~Fire Wardens may designate areas where the Director may allow smoking.~~ (3-31-22)(    )

~~a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. (3-31-22)~~

~~b. Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. (3-31-22)~~

~~c. Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. (3-31-22)~~

~~d. Engines of water pumping equipment used in firefighting. (3-31-22)~~

~~e. Engines of helicopters and other aircraft. (3-31-22)~~

081. -- 089. (RESERVED)

090. ~~SMOKING IN THE WOODS~~ **RESTRICTED ACTIVITIES DURING PROCLAIMED CRITICAL FIRE DANGER.**

01. **Smoking Prohibited** ~~Critical Fire Danger.~~ Smoking is prohibited on forest or range lands of the state ~~during periods of critical fire danger as designated by the director. Logging operators must post "NO SMOKING" signs conspicuously in their camps and operating areas when such periods of critical fire danger have been declared~~ **During periods and in areas of critical fire danger as proclaimed by the Director, any Person engaged in any activities in forest areas of the State may have those activities restricted to the least dangerous periods of the day.** (3-31-22)(    )

~~02. Designated Smoking Areas~~ **Notice.** ~~Fire wardens may designate those areas where smoking may be permitted upon approval of the director. Notice of restricted activities is by Director proclamation and is communicated to the Fire Wardens of the affected Districts and the public throughout the county or counties affected in the most effective way available.~~ (3-31-22)( )

**091. FIRE WATCH SERVICE IN STAGE TWO (2) PROCLAMATION AREAS.**  
 Every Operator engaged in a Forest Operation within a Stage Two (2) proclamation area must provide fire watch service in the Operating Area. ( )

- 01. Duties and Requirements.** Fire watch service consists of at least one (1) person who: ( )
- a.** Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day: ( )
  - b.** Visually observes the Operating Area where activity occurred during the day: ( )
  - c.** Has adequate equipment for transportation and communication to summon timely fire-fighting assistance; and ( )
  - d.** Immediately responds to any fire in the Operating Area by initiating fire suppression actions within the scope of their knowledge, skills, and abilities. ( )

**02. Fire Watch Service Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from Section 091.01. ( )

~~094.2.~~ -- 099. (RESERVED)

**100. FIRE TOOLS AND FIRE EXTINGUISHERS REQUIREMENTS DURING CLOSED FIRE SEASON.**

During ~~e~~Closed ~~f~~Fire ~~s~~Season the following fire tool requirements apply: (3-31-22)( )

**01. Basic Fire Cache.** Every Operator engaged in any Forest Operation on Forest Lands must have available for firefighting purposes the number of tools and tool boxes set forth listed in Table 1. A Forest Operation having more than ten (10) people must use multiples of any of the values in a column in the table to arrive at a tool distribution equal to or in excess of no less than the number of people in the Forest Operation.

TABLE 1			
People in Operation	2 - 5	6 - 8	9 - 10
Tool Box	1	1	1
Shovels	2	4	5
Pulaskis	2	4	4
5 gallon Pump Cans or Bladder Bags	1	1	2

- a.** The tool boxes required by this rule must be clearly marked “FOR FIRE USE ONLY”; and (3-31-22)( )
- b.** The tools required by Subsection 100.01 must be in a location immediately accessible for firefighting purposes, maintained in a serviceable condition, and be fully functional at the time of deployment. (3-31-22)( )



**02. Warming Fires or Campfires.** Except when in designated, developed campgrounds, or when traveling as a pedestrian, all ~~p~~Persons or parties igniting warming fires or campfires must be equipped with the following: (3-31-22)(\_\_\_\_)

a. One (1) serviceable shovel at least twenty-four (24) inches in ~~overall~~ length with at least a six (6) inch ~~or~~ wider blade. (3-31-22)(\_\_\_\_)

b. One (1) water container, capacity one (1) gallon or more. (3-31-22)

**03. Power Equipment.** Each unit of mobile or stationary power equipment operating on Forest Land, other than portable power saws, trail bikes, motorcycles, all-terrain ~~vehicles~~ and similar type vehicles, operating on forest lands of the state must be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as ~~not~~ less than 4-BC. (3-31-22)(\_\_\_\_)

**04. Portable Power Saw.** Any ~~p~~Person using a portable power saw on ~~f~~Forest ~~L~~and ~~in the state~~ must have the following immediately available for ~~the fire~~ prevention and suppression ~~of fire~~: (3-31-22)(\_\_\_\_)

a. A fully charged operable fire extinguisher of at least eight (8) ounce ~~minimum~~ capacity. (3-31-22)(\_\_\_\_)

b. A serviceable round-pointed size zero (0) or larger shovel. (3-31-22)

**101. -- 109. (RESERVED)**

**110. FIRE CREWS DURING CLOSED FIRE SEASON.**

When engaged in a Forest Operation on Forest Lands during ~~e~~Closed ~~f~~Fire ~~s~~Season, the ~~p~~Person responsible for the Forest Operation must designate a fire crew and a fire foreman; (with powers to act for their employer); ~~to~~ Without compromising the safety of the crew, the firefighters must take immediate, initial reasonable action within the scope of their knowledge, skills, and abilities ~~and make a reasonable effort~~ to suppress any fire starting on the Operating Area ~~without compromising the safety of the crew.~~ (3-31-22)(\_\_\_\_)

~~111. -- 119. (RESERVED)~~

~~120. RESTRICTED ACTIVITIES.~~

~~01. Critical Fire Danger.~~ During periods of critical fire danger, as determined by the director, all persons engaged in any activities in forest areas of the state, determined to be critical, may have those activities restricted to the least dangerous periods of the day. (3-31-22)

~~02. Notice.~~ Notification of such restriction will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. (3-31-22)

~~121. -- 129. (RESERVED)~~

**130. WATER SUPPLY AND EQUIPMENT OPERATING AREA SEASONAL FIRE PREVENTION REQUIREMENTS.**

~~Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually must provide the following water supply and fire suppression equipment in the Operating Area. To prevent the spread of fire in or from an Operating Area, every Operator conducting a Forest Operation using a Cable Logging System or a Metal-Tracked Harvester during the calendar period of July 1st through September 30th must comply with the following precautions:~~ (3-31-22)(\_\_\_\_)

**01. Water Supply, Water Delivery, and Readiness.** (3-31-22)(\_\_\_\_)

a. The water supply ~~must~~ will consist of a self-propelled motor vehicle or trailer equipped with a water tank containing ~~not~~ less than two hundred (200) gallons of water. (3-31-22)

~~b.~~ Trailers used for ~~this purpose~~ water tanks must be equipped with will have a functional hitch attachment and have a serviceable tow vehicle immediately available ~~to provide~~ for timely ~~fire suppression~~ response. (3-31-22)(    )

b. For water delivery, there will be a water pump, hose, and a nozzle. (    )

~~02. Water Delivery.~~ (3-31-22)

~~a.i.~~ Water pump. ~~The size and capacity of the~~ water pump must be of sufficient capacity to provide ~~a discharge of not less than~~ at least twenty (20) gallons per minute when ~~pumping~~ discharged at pump level through fifty (50) feet of ~~hose of not less than~~ at least three quarter (¾) inch inside diameter hose with an adjustable nozzle ~~at pump level.~~ (3-31-22)(    )

~~b.ii.~~ Hose and nozzle. ~~The Operator~~ There must ~~have~~ be at least five hundred (500) feet of serviceable hose of ~~not less than~~ at least three quarter (¾) inch inside diameter and a nozzle. (3-31-22)(    )

~~03. Readiness.~~ (3-31-22)

~~a.c.~~ To ensure readiness: (    )

i. All hose, motor vehicles, trailers, tanks, nozzles, and pumps ~~must will~~ be kept ready for immediate use during active operations, including the fire watch service ~~as set forth~~ described in Section ~~140~~ 091 ~~of these rules.~~ (3-31-22)(    )

b.ii. The water supply, pump, ~~a minimum of~~ at least two hundred (200) feet of immediately deployable hose ~~packaged in a suitable manner for immediate deployment,~~ and the nozzle ~~must will~~ be maintained as a connected, operating unit ready for immediate use. (3-31-22)(    )

02. Additional Seasonal Requirements for Cable or Cable-Assisted Logging. When conducting a Cable or Cable Assisted Logging operation on Forest Land the Operator must: (    )

a. Clear the ground of all flammable debris for at least (10) feet slope distance from the point directly below any Block; (    )

b. Prevent moving lines from rubbing on rock or woody material that could create sparks or sufficient heat that may ignite fuel; and (    )

c. Provide at each Block: (    )

i. One (1) pump equipped can or bladder containing no less than five (5) gallons of water; and (    )

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. (    )

043. Water Supply and Equipment Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the ~~water supply and equipment~~ requirements of ~~Subsection 130~~ 120.01. (3-31-22)(    )

~~131. 139.~~ (RESERVED)

140. FIRE WATCH SERVICE.

Every Operator engaged in a Forest Operation within a Stage 2 proclamation area ~~must provide Fire Watch Service in the Operating Area.~~ (3-31-22)

01. Duties and Requirements. Fire Watch Service must consist of at least one (1) person who: (3-31-22)

- ~~a. Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day. (3-31-22)~~
- ~~b. Visually observes the Operating Area where activity occurred during the day. (3-31-22)~~
- ~~c. Has adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and (3-31-22)~~
- ~~d. Immediately responds to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. (3-31-22)~~

~~02. **Fire Watch Service Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. (3-31-22)~~

~~141. — 149. (RESERVED)~~

**150. OPERATION AREA FIRE PREVENTION:**

To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, must comply with the following precautions: (3-31-22)

~~01. **Cable or Cable Assisted Logging.** The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. (3-31-22)~~

~~a. Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. (3-31-22)~~

~~b. Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. (3-31-22)~~

~~c. Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. (3-31-22)~~

~~d. Provide at each Block: (3-31-22)~~

~~i. One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and (3-31-22)~~

~~ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. (3-31-22)~~

~~151-21. -- 999. (RESERVED)~~

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT**  
**AND FIRE HAZARD REDUCTION LAWS**  
**DOCKET NO. 20-0402-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2024.

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

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

The Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2024 and legislative review in 2025 with the goal of simplifying and streamlining the rules for increased clarity and ease of use. The rule provides for Hazard Management Agreements and Contracts and provides for burning requirements and Slash Hazard Reduction standards associated with cutting timber or other Forest Products. The rule also provides for release or continuation of Contractor liability for wildfire suppression costs.

**FEE SUMMARY:** N/A

**FISCAL IMPACT:** None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted and concluded April 17, 2024. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the October 4, 2023 Idaho Administrative Bulletin, [Vol. 23-10, page 514](#).

**INCORPORATION BY REFERENCE:** None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Brooke Heasty at [bheasty@idl.idaho.gov](mailto:bheasty@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 1st day of June, 2024.

Joshua J. Harvey  
Fire Management Chief  
Forestry and Fire Division  
Idaho Department of Lands  
3284 W Industrial Loop  
Coeur d'Alene, Idaho, 83815  
Phone: (208) 666-8650  
Fax: (208) 769-1524

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0402-2401  
(ZBR Chapter Rewrite.)

20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT  
AND FIRE HAZARD REDUCTION LAWS

000. LEGAL AUTHORITY.

~~These rules are~~ This chapter is adopted ~~pursuant to~~ under the ~~rulemaking~~ legal authority ~~granted in~~ of Sections 38-132, ~~and~~ 38-402, ~~58-105, and 67-5201 et seq.,~~ Idaho Code. (3-18-22)(\_\_\_\_)

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.04.02, “Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws.” and implement the provisions of Title 38, Chapters 1 and 4, Idaho Code. They provide for Hazard Management Agreements and Contracts and provide for burning requirements and Slash Hazard Reduction standards associated with cutting timber or other Forest Products. They also provide for release or continuation of Contractor liability for wildfire suppression costs. (3-18-22)(\_\_\_\_)

~~02. Scope.~~ These rules implement the provisions of the Idaho Forestry Act and Fire Hazard Reduction Laws. (3-18-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~Unless otherwise required by context, as used in these rules~~ The terms Fire Warden, Forest Land, Forest Products, Person, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act and IDAPA 20.04.01, the following definitions apply to these rules: (3-18-22)(\_\_\_\_)

~~01. Agreement.~~ The Certificate of Compliance-Fire Hazard Management Agreement (~~Department of Lands Form 715~~) required by ~~under~~ Section 38-122, Idaho Code (Fire Management Handbook 715 Att. 1). (3-18-22)(\_\_\_\_)

~~02. Clearance.~~ The Certificate of Clearance (Fire Management Handbook 760 Att. 1), required by law, which states the Contractor has met the terms of Section 38-122, Idaho Code. (\_\_\_\_)

~~03. Contract.~~ An optional Hazard Management Contract entered into with the Director by any landowner or Operator, under Section 38-404, where the Department assumes the responsibility for management of the fire hazard in exchange for a fee. (\_\_\_\_)

~~024. Contract Area.~~ The legal description of the land given on the ~~a~~ Agreement or Contract. (3-18-22)(\_\_\_\_)

~~035. Contractor.~~ The ~~p~~ Person who enters into the ~~Certificate of Compliance-Fire Hazard Management Agreement.~~ (3-18-22)(\_\_\_\_)

~~046. Department.~~ The Idaho Department of Lands. (3-18-22)

~~057. Director.~~ The Director of the Idaho Department of Lands or ~~his authorized representative~~ their designee. (3-18-22)(\_\_\_\_)

~~068. District.~~ A designated forest protective district under Section 38-110 Idaho Code. (3-18-22)(\_\_\_\_)

~~079. Fire Line.~~ A ~~line break in fuel scraped or~~ dug to mineral soil ~~which is intended~~ to control a fire.

(3-18-22)( )

~~08~~**10.** ~~Fire Warden Management Handbook.~~ A ~~duly appointed fire warden or deputy~~ policy document which describes procedures and forms the Department uses to administer these rules. (3-18-22)( )

~~09~~**11.** ~~Fuel.~~ Any ~~s~~lash or woody debris that ~~will~~ contributes to the spread or intensity of a wildfire. (3-18-22)( )

~~10~~**2.** ~~Fuel Break.~~ An area in which all ~~slash and dead woody debris have been~~ Fuel is removed or piled and burned. (3-18-22)( )

**13.** Hazard Points. A metric used by the Department to compute the fire hazard rating for Slashing Areas based on Hazard Reduction, site characteristics, and other protective measures that may reduce the spread or intensity of a wildfire. ( )

~~14~~**4.** ~~Hazard Reduction.~~ The burning or physical reduction of fire hazards by treatment ~~in a manner that will to~~ reduce the spread or the intensity ~~and/or spread~~ of a wildfire ~~after treatment is completed.~~ (3-18-22)( )

~~12~~**5.** ~~Initial Purchaser or Purchaser.~~ The first ~~p~~Person, ~~company, partnership, corporation or~~ association of whatever nature ~~who~~ to purchases a ~~f~~Forest ~~p~~Product after it is harvested. (3-18-22)( )

~~13~~**6.** ~~Operational Period.~~ A standard twelve (12) hour fire control shift. (3-18-22)

**17.** Prescribed Fire. The controlled application of fire to wildland fuels, in either their natural or modified state, under conditions of weather, fuel moisture, and soil moisture, that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives. ( )

~~14~~**8.** ~~Slash or Slashing.~~ Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or ~~to the~~ clearing of land, which are four (4) inches and under in diameter. However, ~~for the purpose of these rules and~~ to correspond with standard fire classifications, for these rules, slash ~~will~~ only includes ~~material less than or equal to~~ three (3) inches or less in diameter. (3-18-22)( )

**19.** Slashing Areas. Areas where sufficient flammable material to constitute a menace to life or property remains on the ground after cutting trees or brush preparatory to clearing, or after cutting Forest Products. ( )

~~15~~**20.** ~~Slash Load.~~ Slash resulting from timber harvesting ~~that has occurred~~ under a current ~~a~~Agreement, exclusive of natural mortality. (3-18-22)( )

~~16.~~ ~~State.~~ The state of Idaho. (3-18-22)

**011.** ABBREVIATIONS.

**01.** FMH. Fire Management Handbook. ( )

~~014~~**2.** -- 029. (RESERVED)

**030.** CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.

**01.** Contents. A Certificate of Compliance-Fire Hazard Management Agreement must be obtained ~~by anyone who conducts an operation involving the~~ before any Person may harvesting of ~~f~~Forest ~~p~~Products or potential ~~f~~Forest ~~p~~Products. ~~Such The~~ Agreement provides ~~the options of entering into to enter into~~ a ~~e~~Contract ~~as provided in Section 38-404, Idaho Code or for~~ posting of a cash or surety bond to the State. The ~~Certificate of Compliance required by Section 38-122, Idaho Code, must be in substantially the same form as Department of Lands Form No. 715—“Certificate of Compliance Fire Hazard Management Agreement.”~~ Agreement is described in FMH 715. (3-18-22)( )

02. **Period of Time.** The period ~~set forth within defined by~~ the Agreement is based ~~upon such considerations as on~~ the size of the eContract aArea, the volume of the timber to be harvested, ~~or and~~ the silvicultural objectives of the landowner. ~~However, i~~ In no case may a single Agreement exceed a period of twenty-four (24) months unless the eContractor submits, and the fFire wWarden ~~mutually agree upon approves~~, a written hazard management plan for the timely abatement of the hazard during a longer period ~~that may exceed twenty four (24) months.~~ (3-18-22)(    )

03. **Extensions.** If ~~the a~~ eContractor cannot meet the standard required to obtain a eClearance within the period specified ~~above in the Agreement~~, the ~~y contractor~~ may apply to the fFire wWarden for an extension. The application must be in writing, received at the Fire dDistrict office thirty (30) working days before the Agreement expires, and show good reason ~~other than financial hardship; as to~~ why an extension ~~should be given is necessary (other than financial hardship).~~ Prior to the Agreement's expiration date, ~~the fFire wWarden will acknowledge receipt of grant or deny the request prior to the expiration of the Agreement with a form from FMH 715.~~ (3-18-22)(    )

04. **Responsibility.** The eContractor named in the Agreement ~~will be is~~ responsible for managing the fire hazard created by the harvesting and will receive the eClearance if the ~~slash treatment meets standards, requirements of Section 120 are met~~ or will carry the liability for suppressing wildfire for five (5) full years following the expiration of the Agreement. (3-18-22)(    )

031. -- 039. (RESERVED)

040. **ADDENDUM TO ~~CERTIFICATE OF COMPLIANCE FIRE HAZARD MANAGEMENT AGREEMENT FOR PARTIAL HAZARD REDUCTION.~~**  
~~In those instances where~~ When a eContractor ~~indicates an intent intends~~ to ~~accomplish only the piling portion of the total only pile, but not dispose of or physically treat the s~~ slash hazard reduction job Load, an addendum to the Agreement must be executed ~~that precisely specifying precisely specifies~~ the portion of ~~slash withholding hazard reduction money that will be monies to be~~ refunded. The addendum ~~must be in substantially the same form as Department of Lands Form No. 715.1 "Addendum to Certificate of Compliance Fire Hazard Management Agreement."~~ is executed with a form in FMH 715. (3-18-22)(    )

041. -- 049. (RESERVED)

050. BOND.

01. **Amount of Bond.** The bond specified in Section 38-122 ~~and Section 38-404~~, Idaho Code, ~~must will~~ be in the amount of four dollars (\$4) per thousand board feet (MBF), or equivalent measure as shown in Table I below, of fForest pProducts harvested; and may ~~take the form of be:~~ cash; surety bond; or irrevocable letter of credit. Surety bonds must be ~~in substantially the same form as on forms provided by~~ Department of Lands Form No. 707-~~"Bond."~~ (3-18-22)(    )

02. **Rates.** Rates and amounts listed in Table I ~~will be are~~ used as a minimum in calculating hazard reduction bonds for Forest pProducts cut from all state and private lands in Idaho.

TABLE I	
PRODUCT	BOND RATE
(1) MBF Measurement	
All Products	\$4.00 MBF
OR	
(2) Other Measurement	
Green pulp, stud timber, etc.	\$2.00 Cord

TABLE I	
PRODUCT	BOND RATE
Lineal Foot Measure	
Utility poles and pilings, all species	\$.014 LF
Stulls, corral poles, cellar timbers, fence rails, round posts	\$.01 LF
Piece Measure	
100 inch bolt material	\$.08 ea.
Split posts	\$.02 ea.
Tree stakes	\$.02 ea.
Shake boards	\$.02 ea.
Ton Measurement	
Green or Dead Pulp, Chips, etc.	\$.70 Ton

(3-18-22)( )

**03. Exceeding Minimum Bond.** The minimum bond rate ~~will is~~ only ~~be~~ exceeded when the landowner or ~~o~~Operator requests that higher rate to accomplish additional ~~h~~Hazard ~~r~~Reduction. (3-18-22)( )

**051. -- 059. (RESERVED)**

**060. CONTRACTS WITH FOREST LANDOWNERS OR OPERATORS FOR ASSUMPTION OF HAZARD MANAGEMENT RESPONSIBILITY.**

Forest landowners and ~~o~~Operators who engage in ~~timber harvesting operations~~ **commercial Forest Operations** may enter into an optional ~~Agreement with the Director as provided in Section 38-404, Idaho Code~~ **Contract**. Under the terms of ~~such an optional Agreement~~ **the Contract**, the Director may assume all responsibility for the management and reduction of fire hazards ~~to be~~ created in return for a stipulated amount to be paid to the Director ~~by the landowner or operator. Such Any optional Agreement Contract must be in substantially the same form as on forms provided by the Department of Lands Form No. 720 – “Contract for Management, Reduction and/or Removal of Fire Hazards Created by the Harvesting of Timber Within the State of Idaho,” or Department of Lands Form No 725 – “Contract for Management of Fire Hazards Created By the Harvesting of Timber Within the State of Idaho.”~~ (3-18-22)( )

**061. -- 069. (RESERVED)**

**070. CONTRACTOR CASH BOND RELEASE TO THE DIRECTOR.**

Contractors ~~who that~~ elect, under Section 38-122, Idaho Code, to have hazard reduction money withheld; but ~~who~~ do not intend to dispose of the hazard themselves, must release the withheld monies to the Director ~~of the Department of Lands. Such The release must be in substantially the same form as Department of Lands Form No. 761 – “Release of Cash Bond Withheld to Assure Slash Disposal.”~~ **is on a form in FMH 761.** (3-18-22)( )

**071. -- 079. (RESERVED)**

**080. ADDED PROTECTION IN LIEU OF HAZARD REDUCTION.**

~~As provided in Section 38-401, Idaho Code, f~~Fire hazard management methods may include ~~or be limited to the taking of~~ additional protective measures in lieu of actual disposal of the ~~s~~Slash hazard. Any funds coming into ~~d~~District hazard management accounts through ~~e~~Contract, cash bond release, or forfeiture, may be used for added protection provided that the expenditure meets specifications outlined in Section 38-401, Idaho Code. (3-18-22)( )



081. -- 089. (RESERVED)

090. DUTIES OF THE INITIAL PURCHASER-REQUIREMENTS OF FOREST PRODUCTS.

01. **Initial Purchaser.** Initial pPurchasers of fForest pProducts, ~~in accordance with Section 38-122, Idaho Code,~~ must withhold, and remit to the State, slash management hazard reduction monies as appropriate for according to the slash management hazard option chosen by the eContractor in the Agreement. Such The option must be clearly identified on the pPurchaser's copy of the Agreement. Slash Hazard reduction monies withheld in any one (1) calendar month must be remitted to the Director on or before the end of the next calendar month. Such The remittance must may be in on substantially the same form as Department of Lands Form No. 740 "Hazard Reduction Payment Record (FMH 705) or in a report with the same information". (3-18-22)( )

02. **Duty of Initial Purchaser.** Initial pPurchasers of fForest pProducts must make certain that all eContractors from whom they purchase fForest pProducts have obtained a proper Agreement. (3-18-22)( )

091. -- 099. (RESERVED)

100. INJUNCTION AGAINST FURTHER CUTTING WITHOUT AN AGREEMENT.

Any pPerson who cuts timber or other fForest pProducts of any kind, without having first secured obtaining an Agreement, ~~in accordance with Section 38-122, Idaho Code,~~ may be enjoined from continuing such further cutting and will be required to immediately dispose of all sSlash created. If the pPerson-responsible fails to properly dispose of the sSlash within thirty (30) days after being notified to do so receiving notification, the State may dispose of the sSlash and such the costs of disposal, plus twenty percent (20%) as a penalty, may be collected as a prior lien against the Forest pProducts harvested. (3-18-22)( )

101. -- 109. (RESERVED)

110. BURNING OF SLASH-REQUIREMENTS FOR PRESCRIBED FIRE IN FOREST LAND.

~~01. **Permits.** Any burning operation conducted for the purpose of hazard reduction must be in accordance with the law requiring burning permits during the closed fire season. Persons conducting burning operations must have sufficient men, tools and equipment on hand to immediately stop the uncontrolled spread of any fire. Burning operations must be planned, prepared and executed in such a manner that forest resources are not damaged and air quality standards are met.~~ (3-18-22)

~~02. **Burn Plan.** Burning of specifically designated blocks or areas of forest land for any purpose must be conducted in accordance with a prescribed burn plan approved by the fire warden in whose area of responsibility the burn occurs.~~ (3-18-22)

01. **Burning.** Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), provides adequate control of smoke (IDAPA 58.01.01) and avoids violating air quality standards. ( )

02. **Burn Plans.** Burning within specifically designated blocks or areas of Forest Land at any time must be conducted under a prescribed burn plan approved by the Fire Warden of the District's Fire Warden in which the burn occurs. ( )

a. **For piled Slash burning, the District Fire Warden will provide a burn plan with the Agreement.** ( )

b. **For other burning, the Contractor must submit to the District Fire Warden a detailed prescription for executing the burn.** ( )

03. **Burn Crew.** A Person conducting burning operations must have a permit, when required, and sufficient people, tools, and equipment on hand to immediately stop the uncontrolled spread of any fire. ( )

111. -- 119. (RESERVED)

120. STANDARDS ~~TREATMENT OF~~ **FOR HAZARDS REDUCTION.**

01. Purpose. It is the policy of the State that the fire hazard created by commercial timber harvest be reduced by Slash disposal or physical treatment. This Section provides standards for hHazard rReduction and the release of liability for the contractor who is working under a valid Agreement with the State. (3-18-22)(    )

02. Reduction of Total Hazard Points. The eContractor's Forest Operation must reduce the total hazard points charged against the contract area to achieve a Hazard Point total of five (5) points or less (see Table II) through disposal, treatment and other protective measures on or before the expiration date on the Agreement's expiration date to receive a release of liability against any fires that originate in or pass through any Slashing Area and in order to receive a refund of slash hazard reduction monies withheld (less three (3) percent for the fire suppression fund, ref. Rule150) or; to clear any demands that might be made against the surety bond and to receive a release of liability against any fires that start on or pass through the contract area (as stipulated in Sections 130 and 150). The District's Fire Warden, where the Slashing Areas are located, will use Hazard Point values from the Hazard Reduction, site characteristics, and other protective measures tables shown below to compute the Hazard Rating. If the Operating Area has more than one Slashing Area and the Slashing Areas are topographically unique or separated by uncut timber, each Slashing Area may be audited independently. Detailed example Slash Loads and computations are provided in FMH 760. (    )

a. Slash Load Technical Specifications.

<b>TABLE II - SLASH LOAD TECHNICAL SPECIFICATIONS</b>	
<b>HAZARD RATING (POINTS)</b>	<b>SLASH LOAD</b>
LOW (0-5)	Slash Load does not exceed three (3) ton per acre.
MODERATE (6-10)	Slash Load is between three (3) ton per acre and six (6) ton per acre.
HIGH (11-15)	Slash Load is between six (6) ton per acre and twelve (12) ton per acre.
EXTREME (16-20)	Slash Load is greater than twelve (12) ton per acre.

Slash Loads can be determined by using any standard photo series appropriate for the habitat type represented by the Slashing Area or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the Contractor insists upon the latter, sampling intensity will be one (1) sample per two (2) acres through the Slashing Areas in question. The inventory cost is paid by the Contractor. All Slash resulting from the current harvest is included in the inventory except Slash piled and burned by the Contractor before the expiration date of the Agreement or granted extension. (    )

b. Contractor Hazard Reduction Methods. Hazard Point deductions can be assigned proportionate to the acreage completed using the table below. Fire Lines are a minimum width of eighteen (18) inches for hand constructed and ten (10) feet for machine constructed. Machine constructed lines should not exceed twelve (12) feet width. Clear all Fuels for a minimum of eight (8) feet adjacent to handlines. Displace soil to one side and all vegetative debris to the other for machine lines. Place Fuel Breaks and Fire Lines to take advantage of terrain (ridgelines, swales, etc.), manmade or natural barriers (roads, skid trails, escarpments, etc.), and provide optimum fire control effect. Tie lines to an anchor point except through a riparian management zone.

<b>Method</b>	<b>DESCRIPTION</b>	<b>HAZARD POINT RANGE</b>
Disposal	Remove, pile and burn, or broadcast burn Slash.	0 to 42
Chipping	Chip Slash with a stationary or mobile chipper.	0 to 42

Method	DESCRIPTION	HAZARD POINT RANGE
Crushing or Mastication	Crush Slash with repeated passes of heavy equipment or a mobile masticator. Residual Fuel must not exceed the height and diameter limits for lopping.	0 to 20
Lopping	Cut all material less than three (3) inches in diameter so it does not extend more than twenty (20) inches of the mean height above the ground. Sever all boles greater than three (3) inches in diameter that intersect another bole.	0 to 10
Single Fuel Break	Remove, pile and burn or treat sufficiently all Slash and woody debris for a minimum width of one chain (66 feet).	1 to 5
Single Fire Line	Remove all vegetative material to expose mineral soil.	1
Isolation	Install Fuel Breaks and Fire Lines to divide or isolate Slashing Areas. (See Subsection 04 a.)	1 to 25

( )

**03. Site Characteristics.** The Fire Warden will audit the Forest Operation and assign Hazard Points for site characteristics that increase risk of forest damage or threats to life or property. ( )

**a. Slashing Area Size.** Large Slashing Areas will be assigned up to five (5) Hazard Points using the table below.

ACRES	<40	40-160	161-320	321-480	481-640	>640
PT VALUE	0	1	2	3	4	5

( )

TABLE II – HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS	
RATING (POINTS)	ADJECTIVE DESCRIPTION
LOW (0-5)	Associated with low harvest volumes per acre such as, selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.
MODERATE (6-10)	Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.
HIGH (11-15)	Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.

TABLE II – HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS	
RATING (POINTS)	ADJECTIVE DESCRIPTION
EXTREME (16-20)	Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.
TECHNICAL SPECIFICATIONS	
LOW (0-5)	Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.
MODERATE (6-10)	Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.
HIGH (11-15)	Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.
EXTREME (16-20)	Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.

**b.** Slashing Area Aspect and Slope. The Fire Warden will determine the predominant aspect and slope of each Slashing Area and assign up to ten (10) Hazard Points using the table below.

ASPECT	PERCENT SLOPE					
	0-10	11-20	21-30	31-40	41-50	>50
N to NE	0	0	1	2	4	5
E or NW	0	0	1	3	6	7
W or SE	0	1	2	5	8	9
S to SW	1	2	4	7	9	10

( )

**c.** Pre-existing Slash. Any Slashing Area that has Slash from a previous operation, which has occurred within in the last five (5) years, will be assigned up to two (2) Hazard Points. ( )

**d.** Location. A Slashing Area’s proximity to structures, highways, and recreational areas will be assigned up to five (5) Hazard Points using the table below.

PROXIMITY	
330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

( )

**04. Other Protective Measures.** The Fire Warden can consider other protective measures associated with a Forest Operation by reducing Hazard Points for division or isolation of Slashing Areas, access control, and availability of water for firefighting as follows: ( )

**a. Isolation.** The Fire Warden can reduce Hazard Points using the table below if Fuel Breaks or Fire Lines are used to subdivide Slashing Areas into smaller areas and/or isolate Slashing Areas from other forest stands; the maximum deduction is twenty-five (25) Hazard Points.

<b>ACTIVITY</b>	<b>FUEL BREAK ONLY</b>	<b>FIRE LINE ONLY</b>	<b>BOTH</b>
<u>Slashing Areas are subdivided:</u>			
<u>A. Partial division of Slashing Area</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Slashing Area divided into 2 areas</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. Slashing Area divided into 3 to 5 areas</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>
<u>D. Slashing Area divided into 6 or more areas</u>	<u>16-20</u>	<u>4</u>	<u>16-25</u>
<u>OR</u>			
<u>Slashing Areas are isolated from adjacent stands:</u>			
<u>A. One third of Slashing Area boundaries isolated</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Two thirds of Slashing Area boundaries isolated</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. All Slashing Area boundaries isolated</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>

( )

**b. Access Control.** The Fire Warden can deduct from the Hazard Point sum for each Slashing Area One (1) Hazard Point if a locked gate system controls road access on all secondary roads to the Operating Area and the Slash on the main road is disposed of or treated. Two (2) Hazard Points can be deducted if the system controls all roads into the Operating Area. ( )

**c. Water Supply.** The Fire Warden can deduct Hazard Points from the Hazard Point sum for each Slashing Area for water availability. The supply must provide at least ten thousand (10,000) gallons in any one (1) Operational Period during the fire season. Water supplies accessible to fire engines within one (1) road mile or to helicopter buckets within three (3) air miles are eligible. ( )

**i.** One (1) Hazard Point can be deducted for availability to engines only or to helicopters only. ( )

**ii.** Two (2) Hazard Points can be deducted for availability to engines and helicopters. ( )

**iii.** Two (2) Hazard Points can be deducted for availability to engines or helicopters and the supply self-replenishes every Operational Period. ( )

**iv.** Three (3) Hazard Points can be deducted for availability to engines and helicopters and the supply self-replenishes every Operational Period. ( )

~~Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT 16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one (1) point per two (2) acres through the area in question. The inventory cost is paid by the contractor. All slash made available as a result of the current harvest will be included in the inventory except that slash that has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.~~

<b>SITE FACTORS—MAXIMUM 10 POINTS</b>						
<b>ASPECT</b>	<b>PERCENT-SLOPE</b>					
	<b>0-10</b>	<b>11-20</b>	<b>21-30</b>	<b>31-40</b>	<b>41-50</b>	<b>&gt;50</b>
N-NE	0	0	1	2	4	5
E-NW	0	0	1	3	6	7
W-SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

<b>UNIT SIZE—MAXIMUM 5 POINTS</b>						
<b>ACRES</b>	<b>&lt;40</b>	<b>40-160</b>	<b>161-320</b>	<b>321-480</b>	<b>481-640</b>	<b>&gt;640</b>
<b>PT VALUE</b>	0	1	2	3	4	5

<b>OTHER FACTORS—MAXIMUM 7 POINTS</b>	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc).	Add Points
330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard by optimizing fire control effects.

<b>HAZARD OFFSETS</b>		
<b>ALL POINTS ARE DEDUCTIONS</b>		
<b>DISPOSAL</b>	Piling and Burning, Broadcast Burning, etc.	<b>0-2</b>
<p>If disposal reduces slash load in the contract area to &lt;3 tons, deduct hazard points to five (5) or less. If disposal does not reduce slash load to that level, points should be assigned as a proportion of the area treated. For example, if twenty-five percent (25%) of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds three (3) tons, twenty five percent (25%) of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash, or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden.</p>		

<b>HAZARD OFFSETS</b>		
<b>ALL POINTS ARE DEDUCTIONS</b>		
<b>MODIFICATION:</b>	Chipping	0-42
	Crushing	0-20
	Lopping	0-10
<p>Lopping standards: All material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. In addition, all boles greater than three (3) inches in diameter intersecting another bole will be completely severed.</p> <p>Assign points as a proportion of the contract area treated.</p>		
<b>ISOLATION</b>	<b>Fuel Breaks</b>	<b>0-20</b>
<p>To qualify as a fuel break, all slash and available fuels (Ref. Subsection 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a minimum width of one chain (66 feet). In addition, the breaks must be placed to take advantage of terrain, manmade or natural barriers and to provide for optimum fire control effect.</p>		
	<b>Fire Lines</b>	<b>0-5</b>
<p>All vegetative material must be removed to expose mineral soil. Minimum width of dozer line must be the width of the dozer blade with all dirt pushed in one direction and all vegetative debris to the other. Handlines must be eighteen (18) inches wide; additionally all fuels must be cleared for eight (8) feet. Lines must be tied to an anchor point except that they are not required to be built through a riparian management zone. In addition, the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect. Maximum points allowed only if combined with an approved fuel break.</p>		

<b>ASSIGNING POINTS FOR ISOLATION</b>			
<p><del>Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.</del></p>			
<b>ACTIVITY</b>	<b>FUEL BREAK ONLY</b>	<b>FIRE LINE ONLY</b>	<b>BOTH</b>
Isolates contract area into subunits:			
A. Partial isolation or incomplete units	1-5	1	1-6
B. Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
C. Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
D. Complete isolation of area into 6 or more subunits	16-20	4	16-25
<b>OR</b>			
Isolates contract area from adjacent stands:			
A. One third of the contract area boundary isolated	1-5	1	1-6
B. Two thirds of the contract area boundary isolated	6-10	2	6-12
C. Entire contract area boundary isolated	11-15	3	11-18

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.			
ACTIVITY	FUEL BREAK ONLY	FIRE LINE ONLY	BOTH
ACCESS CONTROL	-0-2		
Locked gate system controls access on all secondary roads with slash treated on main road			4
Locked gate system controls all road access into unit			2
AVAILABILITY OF WATER			0-3
The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.			
Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).			4
Water supply for engine and helicopter (capacity 10,000 gallons) or, for engine or helicopter and which replenishes itself every operational period.			2
Water supply for engine and helicopter which replenishes itself every operational period.			3

(3-18-22)

121. -- 129. (RESERVED)

130. **LIABILITY FOR THE COST OF FIRE SUPPRESSION.**

01. **State Liability.** ~~With the exception of~~ **Except for** cases of negligence on the part of the landowner, eOperator, or their agents, liability for the cost of suppressing fires that originate ~~on in~~ or pass through a sSlashing aArea remains with the State if the Contractor executes one of the following alternatives ~~is executed by the contractor:~~ (3-18-22)( )

a. The ~~contract~~ Slashing aAreas ~~is are~~ covered by a Certificate of Compliance-Fire Hazard Management Agreement and all hazard reduction money payments are current or a proper bond is in place. (3-18-22)( )

b. The eContractor treats the sSlash in accordance with the standards outlined in ~~the~~ Section 120; ~~Table II~~ within the ~~time~~ period specified ~~on in~~ the Agreement or approved extensions. (3-18-22)( )

c. The landowner or eOperator elects to enter into a eContract with the State for management of the sSlash and release from liability ~~of for~~ fire suppression costs ~~in accordance with Section 38-404, Idaho Code as described in Section 060.~~ (3-18-22)( )

02. **Contractor Liability.** Should the eContractor choose ~~not to~~ not treat the sSlash or not enter into a eContract with the State in accordance with ~~Subsection 130.01~~ Section 060, the ~~contractor, in addition to forfeiting any applicable bond,~~ Contractor is liable for fire suppression costs for all fires that originate ~~on in~~ or pass through the eContractor's sSlashing aAreas and must forfeit any applicable bond. The eContractor retains the full liability for five (5) years from the time the Agreement or any extension ~~thereof~~ expires, unless a eClearance ~~has been~~ is issued. (3-18-22)( )

03. **Failure to Treat.** Any eContractor who ~~fails to treat the fire hazard as outlined in~~ is liable under Subsection 130.02; is liable for the actual costs of suppressing any wildfire that ~~may occur on~~ originates in or passes



through the ~~Slashing~~ ~~a~~Areas covered by their ~~individual or separate~~ Agreements for an amount up to two hundred fifty thousand dollars (\$250,000) ~~per Agreement, but no more than one million dollars (\$1,000,000); for separate Agreements with different liable Contractors, the actual costs of suppression up to one million dollars (\$1,000,000) will be shared by the Contractors prorated on the Contract Area acreage of those Agreements.~~ ~~If the same wildfire occurs on or passes through several areas covered by separate agreements or if several Agreements cover the same area, the contractor is liable for the actual cost of suppression up to one million dollars (\$1,000,000).~~ ~~If a wildfire occurs on or passes through an area covered by separate Agreements with different contractors, the actual cost of suppression up to one million dollars (\$1,000,000) will be shared by the contractors prorated on acreage included in their Agreements.~~ (3-18-22)(    )

**04. Fees.** Upon payment of the fees ~~set forth listed~~ in Table III, the State will assume liability for the cost of suppressing fires that originate ~~on in~~ or pass through the ~~e~~Contract ~~a~~Area.

TABLE III - ADDITIONAL FEE TO TRANSFER LIABILITY BY HAZARD POINTS	
POINTS	RATE
6-10	\$1.00/MBF
11-20	\$2.00/MBF
21-30	\$3.00/MBF
>30	\$4.00/MBF

~~Additional~~Fee rates for measurement ~~units~~ other than ~~the~~ board foot ~~measurement unit~~ are available upon request from any Department ~~of Lands~~ office. (3-18-22)(    )

**05. Additional Fee.** If the ~~e~~Contractor is unable to reduce the ~~h~~Hazard ~~p~~Points on a ~~e~~Contract ~~a~~Area to the standards required for a ~~e~~Clearance, but has completed some ~~h~~Hazard ~~r~~Reduction work, ~~that the e~~Contractor can discharge the remainder of ~~his the~~ hazard obligation by returning a portion of ~~his the~~ bond to the ~~Fire d~~District and paying an additional fee to transfer liability. Use the following formula: [One (1) minus (the ~~acceptable low~~ hazard ~~point rating or of five (5);~~ divided by the residual, or untreated ~~h~~Hazard ~~p~~Points)] ~~times the bond rate multiply that ratio times the slash rate.~~ This dollar amount ~~should be is~~ multiplied by the total volume removed from the ~~e~~Contract ~~a~~Area. ~~Add and added to that the total volume times~~ the additional fee to transfer liability ~~(from Table III (for the untreated hazard) points, from Table III) times the total volume.~~ When this amount is paid to the State the ~~contract area Agreement~~ can be cleared. ~~Which can also be This computation is~~ expressed as:

Table 1

$$(1-(5/U)) * B * V + (A*V) = \text{Formula to transfer liability for a partially completed job.}$$

Where:

- U = Untreated or residual hazard points
- B = Bond rate (usually \$4.00 MBF) Ref. Section 050, Table I
- A = Additional fee to transfer liability, Table III
- V = Total volume removed from the ~~e~~Contract ~~a~~Areas

(3-18-22)(    )

131. -- 139. (RESERVED)

140. CERTIFICATE OF CLEARANCE.

The Certificate of Clearance is the instrument used to certify that hazard reduction has been accomplished, a contract entered into with the Director to ensure hazard management, or an additional fee has been paid. Anyone who has been issued an Agreement for the cutting of any forest product or potential forest product and who has met standards outlined in Section 120, or has made payment for hazard reduction under a contract with the Director, as provided in Section 38-404, Idaho Code, or has paid an additional fee in accordance with Section 38-122, Idaho Code, must apply in writing to the Director for a Certificate of Clearance. Within thirty (30) days after receipt of such written request for a Certificate of Clearance, the Director will cause the area covered by the request to be inspected. If it is found that the fire hazard has been properly disposed of, the Director will issue a Certificate of Clearance. The Certificate of Clearance must be substantially the same form as Department of Lands Form No. 760 — “Certificate of Clearance.” Anyone who has entered into an Agreement must apply in writing to the Director for a Clearance. The Clearance certifies that one (1) of the following situations exists: Hazard Reduction was accomplished to the standards in Section 120; an additional fee was paid per Subsection 130.05; or the Contractor entered into a Contract with the Director per Section 060 to ensure hazard management. Within thirty (30) days of receipt of the request for Clearance, the Director will inspect the requested area and issue the Clearance, if the applicable requirements were met. (3-18-22)( )

141. -- 149. (RESERVED)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

01. Withholding Withheld Hazard Reduction Money. An amount of three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) will be withheld from is assessed against all ~~slash management monies~~ hazard reduction money received and dedicated to suppression of wildfires on ~~fForest lLands~~. For harvest from private land, an additional amount not to exceed three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) can be withheld from slash management monies is assessed against hazard reduction money received and ~~will be is~~ dedicated to Forest Practices support on ~~fForest lLands~~. (3-18-22)( )

02. Assessment Costs Surety Bond or Credit. ~~Fire suppression a~~ Assessment costs on ~~Forest e~~ Operations covered by surety bond or irrevocable letter of credit or other form of bond is paid at the rate specified in Subsection 150.01. (3-18-22)( )

151. -- 159. (RESERVED)

160. PRELOGGING CONFERENCE AND ~~AGREEMENT~~ HAZARD MANAGEMENT CONTRACT.

~~Pre logging conferences and hazard reduction agreements are encouraged; however, t~~ The h Hazard ~~reduction agreement~~ Management Contract will be canceled or modified if significant operational changes occur during the Forest Operation ~~harvesting of forest products or potential forest products.~~ (3-18-22)( )

161. -- 999. (RESERVED)

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

**24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**DOCKET NO. 24-0301-2401 (ZBR CHAPTER REWRITE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and Sections 54-701 through 54-717, Idaho Code.

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

<p><b>24.03.01 – Rules of the State Board of Chiropractic Physicians</b></p>
<p><b>Tuesday, July 16, 2024 – 9 a.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.,</b> <b>Boise, ID 83714</b></p> <p><b>Virtual Meeting Link</b></p> <p>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Chiropractic Physicians is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A. The fees did not change.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.41](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED June 7, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-0301-2401**  
**(ZBR Chapter Rewrite.)**

**24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-707, Idaho Code. (3-28-23)

**001. SCOPE.**

These rules govern the practice of chiropractic in Idaho. (3-28-23)

**002. -- 009. (RESERVED)**

**010. DEFINITION.**

**01. Chiropractic Assistant.** A chiropractic assistant is an individual functioning in a dependent relationship with a supervising chiropractic physician in the performance of any chiropractic practice. (3-28-23)

**02. Chiropractic Intern.** A chiropractic intern is defined as any individual who is presently enrolled in a school of chiropractic and is qualified to practice as an intern as established by the approved chiropractic ~~college~~ program that the individual attends and who will function in a dependent relationship with a supervising chiropractic physician in the performance of chiropractic practice. (3-28-23)( )

**03. Direct Personal Supervision.** Direct Personal Supervision means that the licensed chiropractic physician is physically present in the clinic, is monitoring the activities of the supervisee, and is available to intervene, if necessary. (3-28-23)

~~04. **Inactive Retired.** The status of a licensee who is over sixty five (65) years of age, has paid the inactive retired fee and is permanently retired from the practice of chiropractic. The holder of an inactive retired license may not practice chiropractic in Idaho. (3-28-23)~~

~~04. **Clinical Nutritional Practice.** Clinical nutritional methods, without clinical nutrition certification, is defined as the clinical use, administration, recommendation, prescribing, selling, and distributing over-the-counter vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes, glandular extracts, peptides, amino acids, and durable and non-durable medical goods and devices. ( )~~

011. -- 099. (RESERVED)

100. **APPLICATIONS LICENSURE.**

01. **Qualifications.** (3-28-23)

a. New applicants will meet the following requirements: (3-28-23)

~~i. Successful passage of all National Boards Parts I, II, III, and IV administered at the time of application, or other examinations approved by the Board; (3-28-23)( )~~

~~ii. Graduation from a Council on Chiropractic Education (CCE) approved college or university; and Graduation from a chiropractic school, college, or, or other programs as approved by the Board. (3-28-23)( )~~

~~iii. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." (3-28-23)~~

b. Endorsement applicants will meet the following requirements: (3-28-23)

~~i. Successful passage of the National Boards Parts which were in effect at the time of graduation from chiropractic college and physiotherapy, or other examinations approved by the Board; (3-28-23)( )~~

~~ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university Graduation from a program accredited by agency recognized by the U.S. Department of Education or other program approved by the Board; (3-28-23)( )~~

~~iii. Five (5) years of consecutive practice without discipline immediately prior to application and holds a current, valid license to practice in a state, territory, or district of the United States or Canada; (3-28-23)~~

~~iv. Applicants demonstrate that they possess the requisite qualifications to provide the same standard of chiropractic care as provided by physicians in this state. The Board may, in its sole discretion, require further examination to establish such qualifications, such as passage of the National Board Special Purposes Examination for Chiropractors (SPEC); and (3-28-23)~~

~~v. Applicants sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." (3-28-23)~~

~~02. **Continuing Education.** All licensees must comply with the following continuing education requirements: ( )~~

~~a. Applicants for renewal are required to complete a minimum of thirty-six (36) hours of continuing education within the preceding twenty-four (24) months, as approved by the Board. ( )~~

~~b. Each licensee is responsible for maintaining documentation verifying continuing education~~

compliance. ( )

c. The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ( )

d. Continuing education hours not claimed in the current renewal cycle may be claimed in the next renewal cycle. Hours may be carried forward from the immediately preceding cycle, and may not be carried forward more than one renewal cycle. ( )

e. A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance of the original license and the first expiration date of that license. ( )

f. Approved continuing education courses are those courses, programs, and activities that are germane to the practice of chiropractic, as defined in Sections 54-704(1) and (2), Idaho Code, and meet the general requirements and content requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: ( )

i. A college or university accredited by a nationally recognized accrediting agency as recognized by the United States Department of Education; ( )

ii. American Medical Association Physicians Recognition Award (AMA PRA) certified continuing education activities as certified by the American Medical Association (AMA) or other accreditors; ( )

iii. Providers of Approved Continuing Education (PACE); ( )

iv. Other courses may be approved by the Board based upon documentation submitted by the licensee on a board approved form. ( )

**03. Inactive License Status Renewal.** ( )

a. An inactive license must be renewed biennially by submitting the established fee and renewal application. Inactive licenses not renewed will be canceled. ( )

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. ( )

**04. Return to Active Status of License Inactive for Six (6) or Fewer Years.** An inactive license holder whose license has been inactive for six (6) or fewer years may convert from inactive to active license status by: ( )

a. Making written application to the Board on a form prescribed by the Board; ( )

b. Providing documentation to the Board showing successful completion within the previous twenty-four (24) months of the continuing education requirements for renewal of an active license; and ( )

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ( )

**05. Return to Active Status of License Inactive for More Than Six (6) Years.** An inactive license holder whose license has been inactive for more than six (6) years may convert from inactive to active license status by: ( )

a. Making written application to the Board on a form prescribed by the Board. ( )

b. Providing an account to the Board for that period of time during which the license was inactive and

fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. ( )

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ( )

06. Practice Permits. Only one (1) permit may be issued under any circumstances to any individual. Such permit will be valid for a period not to exceed twelve (12) months: ( )

a. Temporary permits will be invalidated when an applicant has failed any attempted examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the temporary permit and no further permits will be issued. ( )

b. Intern permits expire upon graduation. ( )

101. -- 149. (RESERVED)

**150. FEES.**

All fees are non-refundable.

<b>Fee-Type</b>	<b>Amount (Not to Exceed)</b>
Application	\$200
Original license	\$200
Annual renewal	\$200
Inactive license	\$150
Reinstatement of expired license	\$35
Reinstatement of inactive license	\$150
Temporary permit	\$150
Intern permit	\$150
Application for clinical nutrition certification	\$175
Original for clinical nutrition certification	\$175
Clinical nutrition certification renewal	\$175

(3-28-23)

**150. EDUCATION.**

Requirement for Approval. The Board will consider any college, domestic or foreign, which meets standards as determined by the Board and teaches accredited courses in all the subjects set forth in Sections 54-704(1) and 54-709(1)(b), Idaho Code. ( )

151. -- 199. (RESERVED)

**200. EXAMINATIONS PRACTICE STANDARDS.**

~~It is the applicant's duty to take and successfully pass the National Board Examinations administered by the National Board of Chiropractic Examiners as specified in these rules.~~ (3-28-23)

01. Code of Ethics. Chiropractic physicians are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A in these rules. ( )

02. Chiropractic Assistants. The chiropractic physician is responsible and liable for: ( )

- a.** Direct personal supervision; ( )
- b.** Any acts of the assistant in the performance of chiropractic practice; ( )
- c.** Proper training and capabilities of the chiropractic assistant before authorization is given to perform any chiropractic practice or patient education. ( )
- 03. Chiropractic Assistant Limitations.** A chiropractic assistant must not: ( )

  - a.** Manipulate articulations; ( )
  - b.** Interpret diagnostic results for the patient; ( )
  - c.** Provide treatment advice to any patient. ( )
- 04. Chiropractic Interns.** The chiropractic physician is responsible and liable for: ( )

  - a.** Direct personal supervision of the intern; ( )
  - b.** Any acts of the intern in the performance of chiropractic practice; ( )
  - c.** Determining that the intern possesses sufficient training and capabilities before authorization is given to perform any chiropractic practice. ( )
- 05. Chiropractic Intern Limitations.** A chiropractic intern must not: ( )

  - a.** Perform any chiropractic practice independently, but must perform all such practice under the direct personal supervision of a licensed Chiropractic Physician; ( )
  - b.** Provide diagnostic results or interpretations to the patient prior to consultation with the supervising Chiropractic Physician; ( )
  - c.** Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. ( )

201. -- ~~299~~399. (RESERVED)

**300. INACTIVE LICENSE.**

~~A licensee holding a current active license in this state who is not practicing chiropractic in this state may be issued an inactive license in accordance with Section 54-708(2), Idaho Code, as follows:~~ (3-28-23)

- ~~**01. Inactive Status.** Each application for an Inactive status license must be accompanied by: (3-28-23)~~

  - ~~**a.** The established fee; and (3-28-23)~~
  - ~~**b.** A written application to change a current active license to an inactive license. (3-28-23)~~
  - ~~**c.** An inactive license is issued for one (1) year. (3-28-23)~~
- ~~**02. Inactive License Status Renewal.** (3-28-23)~~

  - ~~**a.** An inactive license must be renewed annually by submitting the established fee and renewal application. Inactive licenses not renewed will be canceled. (3-28-23)~~
  - ~~**b.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-28-23)~~



~~03. Return to Active Status of License Inactive for Five (5) or Fewer Years.~~ An inactive license holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: (3-28-23)

- ~~a. Making written application to the Board on a form prescribed by the Board; (3-28-23)~~
- ~~b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (3-28-23)~~
- ~~c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-28-23)~~

~~04. Return to Active Status of License Inactive for More Than Five (5) Years.~~ An inactive license holder whose license has been inactive for more than five (5) years may convert from inactive to active license status by: (3-28-23)

- ~~a. Making written application to the Board on a form prescribed by the Board. (3-28-23)~~
- ~~b. Providing an account to the Board for that period of time during which the license was inactive and fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. (3-28-23)~~
- ~~c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-28-23)~~

~~05. Clinical Nutrition Certificate Expires.~~ If a licensee holds a clinical nutrition certificate and places their license on inactive status, the clinical nutrition certificate is immediately canceled as though the license was not timely renewed as provided in Section 703 of these rules. (3-28-23)

~~06. Reissuance of Clinical Nutrition Certificate.~~ An inactive license holder who held a clinical nutrition certificate at the time their license was placed on inactive status who returns to active license status pursuant to this rule may be reissued a clinical nutrition certificate by showing proof of compliance with the provisions of Sections 704, 705, and 706 that apply to their situation. (3-28-23)

~~301.—349. (RESERVED)~~

**350. CONTINUING EDUCATION:**

All licensees must comply with the following continuing education requirements: (3-28-23)

~~01. Requirement.~~ Applicants for renewal are required to complete a minimum of eighteen (18) hours of continuing education within the preceding twelve (12) months, as approved by the Board. (3-28-23)

~~a. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. (3-28-23)~~

~~b. The educational setting may include a classroom, conference/seminar, on-line, or a virtual classroom. (3-28-23)~~

~~c. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee only will receive continuing education credit for one (1) of the courses. (3-28-23)~~

~~02. Documentation.~~ Each licensee maintains documentation verifying continuing education attendance and curriculum for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-28-23)

~~a. Documented evidence of meeting the continuing education requirement will be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. (3-28-23)~~

~~b. A licensee must submit the verification documentation to the Board if requested by the Board. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (3-28-23)~~

~~03. **Waiver.** The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-28-23)~~

~~04. **Carryover of Continuing Education Hours.** Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. Hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-28-23)~~

~~05. **Exemption.** A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance or the original license and the first expiration date of that license. (3-28-23)~~

~~06. **Continuing Education Activities.** The following educational activities qualify for continuing education: (3-28-23)~~

~~a. Post-graduate education courses, germane to chiropractic practice as approved by the Board. (3-28-23)~~

~~b. Attendance at Board meetings. (3-28-23)~~

~~**351. APPROVAL OF CONTINUING EDUCATION COURSES:**~~

~~01. **Approved Continuing Education Courses.** Approved continuing education courses are those courses, programs, and activities that are germane to the practice of chiropractic, as defined in Sections 54-704(1) and (2), Idaho Code, and meet the general requirements and content requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: (3-28-23)~~

~~a. Council of Chiropractic Education (CCE) approved chiropractic college or university, a college or university accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education or an educational program approved by the Board; (3-28-23)~~

~~b. Providers of Approved Continuing Education (PACE); (3-28-23)~~

~~c. National and state chiropractic associations; and (3-28-23)~~

~~d. **Provider Course Approval.** Other courses that may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: (3-28-23)~~

~~i. The nature and subject of the course and how it is germane to the practice of chiropractic; (3-28-23)~~

~~ii. The name of the instructor(s) and their qualifications; (3-28-23)~~

~~iii. The date, time, and location of the course; (3-28-23)~~

- iv. ~~The specific agenda for the course;~~ (3-28-23)
- v. ~~The number of continuing education hours requested;~~ (3-28-23)
- vi. ~~The procedures for verification of attendance; and~~ (3-28-23)
- vii. ~~Other information as may be requested by the Board.~~ (3-28-23)
- viii. ~~Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course will be granted for a period not to exceed two (2) years or until the course materials or instructors are changed, whichever may occur first.~~ (3-28-23)

~~**02. Licensee Course Approval.** Other courses that may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of chiropractic, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. (3-28-23)~~

~~**352.—399. (RESERVED)**~~

~~**400. APPROVED SCHOOLS OF CHIROPRACTIC.**~~

~~**01. Requirement for Approval.** (3-28-23)~~

~~**a.** The Board will consider a school, college, or university in good standing only if such school, college, or university conforms to the requirements of “recognized candidate for accreditation,” or “accredited” of the Council of Chiropractic Education or any foreign country college which meets equivalent standards as determined by the Board and teaches accredited courses in all the subjects set forth in Section 54-709(1)(b), Idaho Code. (3-28-23)~~

~~**b.** Regardless of the Council on Chiropractic Education status, the Board may make additional requirements for approval as a reputable school, college or university of Chiropractic. (3-28-23)~~

~~**02. New Schools.** Those graduates of new schools of chiropractic will only be accepted for licensure application provided the school reaches “recognized candidate for accreditation” status with the Council on Chiropractic Education within one year following the first graduating class. (3-28-23)~~

**400. FEES.**  
All fees are non-refundable.

<b>Fee Type</b>	<b>Amount (Not to Exceed)</b>
Application	\$200
Original license	\$200
Annual renewal	\$200
Inactive license	\$150
Reinstatement of expired license	\$35
Reinstatement of inactive license	\$150
Temporary permit	\$150
Intern permit	\$150
Application for clinical nutrition certification	\$175
Original for clinical nutrition certification	\$175
Clinical nutrition certification renewal	\$175

( )

401. -- ~~449~~699. (RESERVED)

**450. ADVERTISEMENTS.**

~~01. Prohibited Advertising.~~ A chiropractor must not disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising will be deemed by the Board to be fraudulent, false, deceptive, or misleading if it: (3-28-23)

~~a. Is likely to deceive, defraud, or harm the public; or (3-28-23)~~

~~b. Uses false or misleading statement(s) regarding a chiropractor's skill or the efficacy or value of the chiropractic medicine, treatment, or remedy prescribed by a chiropractor or at a chiropractor's direction in the treatment of any disease or other condition of the body or mind. (3-28-23)~~

~~451. — 549. (RESERVED)~~

**550. CHIROPRACTIC ASSISTANTS.**

~~01. Chiropractic Physician Responsible and Liable.~~ The chiropractic physician is responsible and liable for: (3-28-23)

~~a. Direct personal supervision; (3-28-23)~~

~~b. Any acts of the assistant in the performance of chiropractic practice; (3-28-23)~~

~~c. Proper training and capabilities of the chiropractic assistant before authorization is given to perform any chiropractic practice. (3-28-23)~~

~~02. Chiropractic Assistant Limitations.~~ A chiropractic assistant must not: (3-28-23)

~~a. Manipulate articulations; (3-28-23)~~

~~b. Provide diagnostic results or interpretations to the patient; (3-28-23)~~

~~c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. (3-28-23)~~

**551. CHIROPRACTIC INTERN.**

~~01. Chiropractic Physician Responsible and Liable.~~ The chiropractic physician is responsible and liable for: (3-28-23)

~~a. Direct personal supervision of the intern; (3-28-23)~~

~~b. Any acts of the intern in the performance of chiropractic practice; (3-28-23)~~

~~c. Determining that the intern possesses sufficient training and capabilities before authorization is given to perform any chiropractic practice. (3-28-23)~~

~~02. Chiropractic Intern Limitations.~~ A chiropractic intern must not: (3-28-23)

~~a. Perform any chiropractic practice independently, but must perform all such practice under the direct personal supervision of a licensed Chiropractic Physician; (3-28-23)~~

~~b. Provide diagnostic results or interpretations to the patient prior to consultation with the supervising~~

~~Chiropractic Physician; (3-28-23)~~

~~e. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. (3-28-23)~~

**552. TEMPORARY PRACTICE PERMITS.**

~~When an original application for license or internship is accepted by the board as being fully completed, in accordance with the requirements of the Idaho Chiropractic Physician Law and these Rules, a temporary permit to practice may be issued. (3-28-23)~~

~~01. **Supervision Required.** A permit holder may work only when under the direct personal supervision of a chiropractic physician currently licensed in Idaho. The name, address, and signature of the supervising chiropractic physician will appear on the application. (3-28-23)~~

~~02. **Only One Permit May Be Issued.** Only one (1) permit may be issued under any circumstances to any individual. (3-28-23)~~

~~03. **Validity of Temporary Permits.** Temporary permit to practice will be valid for a period not to exceed twelve (12) months and only. (3-28-23)~~

~~a. In the case of an applicant for Idaho licensure, until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. (3-28-23)~~

~~b. In the case of an intern, until the scheduled date of graduation from an approved school of chiropractic. Upon original application for licensure in Idaho, the intern permit may be extended by the board until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. (3-28-23)~~

~~553.—604. (RESERVED)~~

**605. CODE OF ETHICS.**

~~Chiropractic physicians are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A in these rules. (3-28-23)~~

~~606.—699. (RESERVED)~~

**700. CLINICAL NUTRITION CERTIFICATION AND PRACTICE.**

~~01. **Non-Certified Clinical Nutritional Practice.** Clinical nutritional methods as referenced in Section 54-704(1), Idaho Code, include, but are not limited to, the clinical use, administration, recommendation, compounding, prescribing, selling, and distributing non-prescription vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes and glandular extracts, and durable and non-durable medical goods and devices. Nothing herein shall allow any deviation from Section 54-704(3), Idaho Code. (3-28-23)~~

~~02. **Certified Clinical Nutritional Practice.** The Board may issue clinical nutrition certification to a chiropractic physician licensed by the Board who successfully completes the minimum education and complies with requirements in Chapter 7, Title 54, Idaho Code governing clinical nutrition certification and the requirements of Sections 700 through 706. (3-28-23)~~

~~701. (RESERVED)~~

**702. REQUIREMENTS FOR CLINICAL NUTRITION CERTIFICATION.**

~~The Board may grant clinical nutrition certification to a licensee who completes an application, pays the applicable~~

~~fees and meets the following requirements: (3-28-23)~~

~~**01. General:** (3-28-23)~~

~~**a.** Hold and maintain a current, active, unrestricted license as a chiropractic physician issued by the Board. (3-28-23)~~

~~**b.** Not have been on probation or otherwise disciplined by the Board or by any other licensing board or regulatory entity; provided the applicant may make written request to the Board for an exemption review to determine the applicant's suitability for certification, which the Board shall determine in accordance with the following: (3-28-23)~~

~~**i.** The exemption review shall consist of a review of any documents relating to the probation or discipline and any supplemental information provided by the applicant bearing upon the applicant's suitability for certification. The Board may, at its discretion, grant an interview of the applicant. During the review, the Board shall consider the following factors or evidence: (3-28-23)~~

~~(1) The severity or nature of the violation(s) resulting in probation or discipline; (3-28-23)~~

~~(2) The period of time that has passed since the violation(s) under review; (3-28-23)~~

~~(3) The number or pattern of violations or other similar incidents; (3-28-23)~~

~~(4) The circumstances surrounding the violation(s) that would help determine the risk of repetition; (3-28-23)~~

~~(5) The relationship of the violation(s) to the practice of chiropractic or any health care profession, including but not limited to, whether the violation(s) related to clinical practice, involved patient care, a violation of any state or federal law, rule or regulation relating to controlled substances or to a drug, substance or product identified in Section 54-704(3)(b), Idaho Code; (3-28-23)~~

~~(6) The applicant's activities since the violation(s) under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and (3-28-23)~~

~~(7) Any other mitigating or aggravating circumstances. (3-28-23)~~

~~**ii.** The applicant shall bear the burden of establishing current suitability for certification. (3-28-23)~~

~~**e.** Successfully complete the requirements of Section 54-717, Idaho Code, and Section 702. (3-28-23)~~

~~**d.** Written verification of current health care provider cardiopulmonary resuscitation (CPR) certification. Health care provider CPR certification must be from a course that includes a hands-on skill component as provided by the American Heart Association, American Red Cross, American Health and Safety Institute or similar provider approved by the Board. Written verification of current basic life support (BLS) certification. All chiropractic physicians holding clinical nutrition certification must maintain current health care provider CPR and BLS certification as provided in this Section. (3-28-23)~~

~~**e.** Certify that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is being performed. BLS equipment shall include at a minimum: (3-28-23)~~

~~**i.** Rescue breathing equipment. (3-28-23)~~

~~**ii.** Oxygen. (3-28-23)~~

~~**iii.** Epinephrine. (3-28-23)~~

~~f. Certify that the chiropractic physician possesses and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. (3-28-23)~~

~~g. Payment of all fines, costs, fees or other amounts that are due and owing to the Board or in compliance with a payment arrangement with the Board is required to be eligible for clinical nutrition certification pursuant to Sections 700 through 706. (3-28-23)~~

~~**02. Didactic Education Requirement.** Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of seven (7) credits (seventy seven (77) hours) of didactic human nutrition, nutrition biochemistry, and nutritional pharmacology courses. The certificate or other evidence of successful completion must be provided directly to the Board by the educational institution. (3-28-23)~~

~~a. Chiropractic physicians licensed by the Board who apply for clinical nutrition certification may be determined to have satisfied the didactic education requirements only if they present a certificate or other evidence acceptable to the Board pursuant to this Section demonstrating they commenced obtaining the didactic education required by this Section no earlier than three (3) years prior to applying for clinical nutrition certification and thereafter successfully completed the requirements. (3-28-23)~~

~~**03. Practicum Requirement.** Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of twenty-four (24) hours of practicum in intravenous and injectable nutrient therapy, which must include: sterile needle practices, phlebotomy, proper injection techniques, intravenous therapy techniques, intramuscular injection techniques, safety practices, and use and expected outcomes utilizing micronutrients, response to adverse effects, lab testing, and blood chemistry interpretation. (3-28-23)~~

~~a. After July 1, 2019, the practicum of any applicant for clinical nutrition certification required by this Section must not have commenced more than two (2) years prior to the date of application for clinical nutrition certification and be successfully completed thereafter. (3-28-23)~~

~~**04. Accredited Institution and Program Requirement.** The courses and practicum required by Subsections 702.02 and 702.03 must be taken from an accredited chiropractic college or other accredited institution of higher education. In addition the courses and practicum must be from an accredited program at the college or institution or be a program approved by the Board. (3-28-23)~~

~~a. For purposes of this Section “accredited” means accredited by an accrediting agency recognized by the United States Department of Education. (3-28-23)~~

~~b. For purposes of this Section “approved by the Board” means a program that is a “recognized candidate for accreditation,” has “initial accreditation” status or “preaccreditation” status by an accrediting body recognized by the United States Department of Education, or is substantially equivalent to a program having that status. (3-28-23)~~

~~e. An applicant for clinical nutrition certification bears the burden to demonstrate their education and training in clinical nutrition meets the requirements of this Section, including both the accredited institution and accredited program requirements. (3-28-23)~~

~~**05. Audit of Compliance with Clinical Nutrition Certification and Recertification Requirements.** The Board may conduct audits to confirm that licensees meet the requirements to maintain clinical nutrition certification and recertification. In the event a licensee audited by the Board fails to provide documentation or other evidence acceptable to the Board of meeting the clinical nutrition certification or recertification requirements as verified to the Board as part of their annual license renewal or the recertification process the matter will be referred to Division’s investigative unit for investigation and potential disciplinary proceedings by the Board. (3-28-23)~~

~~**06. Requirement to Maintain Supporting Documentation.** A licensee need not submit documentation to the Board with a chiropractic license renewal application verifying qualifications for annual issuance of clinical nutrition certification pursuant to Section 703, or verifying qualifications to recertify clinical~~

~~nutrition certification pursuant to Section 706. However, a licensee must maintain documentation for a period of five (5) years verifying the licensee has satisfied the requirements. A licensee must submit the documentation to the Board if the annual reissuance or the recertification is audited. All documentation must include the licensee's name, and as applicable, the date the course or other required activity commenced and was completed, provider name, course title and description, length of the course/activity, and other information required by the Board. (3-28-23)~~

~~**703. ANNUAL ISSUANCE OF CLINICAL NUTRITION CERTIFICATION WITH LICENSE RENEWAL.**~~

~~**01. Expiration Date.** Chiropractic physicians' clinical nutrition certification expires on the expiration date of their chiropractic license and must be issued ~~annually~~ **biennially** with the renewal of their license pursuant to Section 350. The Board will waive the clinical nutrition certification fee in conjunction with the first timely renewal of the chiropractic license after initial clinical nutrition certification. (3-28-23)(    )~~

~~**02. Issuance.** Clinical nutrition certification is issued annually by timely submission of a chiropractic license renewal application, payment of the chiropractic license renewal fee, the clinical nutrition certification fee, any amounts owing pursuant to Subsection 702.01.g., and verifying to the Board that the licensee is in compliance with the requirements for clinical nutrition certification as provided in the Board's laws and rules. (3-28-23)~~

~~**03. Failure to Comply with Issuance Requirements.** (3-28-23)~~

~~**a.** If a licensee with clinical nutrition certification fails to verify meeting clinical nutrition certification annual issuance requirements when renewing their chiropractic physician license the clinical nutrition certification is canceled and the chiropractic physician license will be renewed without clinical nutrition certification. (3-28-23)~~

~~**b.** If a licensee with clinical nutrition certification fails to timely renew their chiropractic physician license their clinical nutrition certification is canceled. (3-28-23)~~

~~**e.** Clinical nutrition certification canceled pursuant to this Section may be reissued within three (3) years in accordance with Section 704. (3-28-23)~~

~~**704. REISSUANCE OF CANCELLED CLINICAL NUTRITION CERTIFICATION.**~~

~~**01. Reissuance.** Clinical nutrition certification canceled pursuant to Subsection 703.03 may be reissued within three (3) years of cancellation as follows: (3-28-23)~~

~~**a.** Submission of a reissuance application and payment of the current clinical nutrition certification fee. (3-28-23)~~

~~**b.** Submission of any other documents required by the Board for reissuance including but not limited to: (3-28-23)~~

~~**i.** Documentation of holding current licensure as a chiropractic physician from the Board meeting the requirements of Section 702. (3-28-23)~~

~~**ii.** Documentation of compliance with clinical recertification requirements in accordance with Section 706. (3-28-23)~~

~~**iii.** Documentation of current health care provider CPR and BLS certification and certification that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is performed and that informed consent and voluntary permission to perform the proposed therapy are being used in accordance with Section 702. (3-28-23)~~

~~**705. CLINICAL NUTRITION CERTIFICATION CANCELLED FOR OVER THREE (3) YEARS.**~~

~~Clinical nutrition certification canceled for a period of more than three (3) years may not be reissued. The chiropractic physician so affected is required to make application to the Board in compliance with Section 701 and Section 702 and pay the application and other fees for new clinical nutrition certification. The applicant will be~~



reviewed by the Board and considered as follows: (3-28-23)

~~01. **Current Competency and Training.** The chiropractic physician must fulfill requirements as determined by the Board that demonstrate the chiropractic physician's competency to regain clinical nutrition certification in this state. Such requirements may include, but are not limited to, education, supervised practice, and examination, including some or all education, training and other requirements for original clinical nutrition certification as set forth in Section 54-717, Idaho Code, and Section 702.~~ (3-28-23)

~~02. **New Clinical Nutrition Certification.** Chiropractic Physicians who fulfill the conditions and requirements of this Section may be granted a new clinical nutrition certification.~~ (3-28-23)

**706. CLINICAL NUTRITION RECERTIFICATION REQUIREMENT.**

~~01.2. **Recertification in Clinical Nutrition Every Three Four (43) Years.** After Initial certification in clinical nutrition, chiropractic physicians must recertify in clinical nutrition every three four (34) years in order to maintain clinical nutrition certification.~~ (3-28-23)(    )

~~02. **Annual Verification of Meeting Requirements.** In order to maintain clinical nutrition certification pursuant to Section 54-717, Idaho Code, and Section 700, chiropractic physicians having clinical nutrition certification must annually verify, along with their chiropractic license renewal, pursuant to Subsection 706.01 by attesting to the Board they are in compliance with the requirements to recertify in clinical nutrition the following:~~ (3-28-23)

~~a. Completion within the three (3) years prior to recertification of a twelve (12) hour in person face to face classroom course from an institution and program meeting Section 702.04 accreditation requirements. The course must include both didactic education and practical review and practice of contemporary developments and best practices to maintain core competency in the practice of clinical nutrition as set forth in Section 54-716, Idaho Code, and Section 54-717, Idaho Code.~~ (3-28-23)

~~b. Current licensure as a chiropractic physician issued by the Board meeting the requirements of Section 702.~~ (3-28-23)

~~c. Current health care provider CPR and BLS certification and that BLS equipment is maintained on the premises where clinical nutrition treatment is performed pursuant to Section 702.~~ (3-28-23)

~~d. They possess and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code.~~ (3-28-23)

~~03. **Recertification is in Addition to Required Annual Biennial Continuing Education.** The A twelve (12) hour recertification course requirement is which includes both didactic education and practical review and practice of contemporary developments and best practices to maintain core competency in the practice of clinical nutrition as set forth in Section 54-716, Idaho Code, and Section 54-717, Idaho Code must be completed in addition to the annual eighteen biennial thirty-six (+836) hours of continuing education required under Section ~~350~~ 100.02.a prior to recertification. This recertification course must be approved by the board. (3-28-23)(    )~~

~~04. **Failure to Timely Recertify in Clinical Nutrition.** Clinical nutrition certification not timely recertified in accordance with Section 706 expires and is canceled. Clinical nutrition certification canceled for failure to recertify may be reissued within three (3) years in accordance with Section 704. (3-28-23)(    )~~

**707.1. OBTAINING AND INDEPENDENTLY ADMINISTERING CLINICAL NUTRITION PRESCRIPTION DRUG PRODUCTS.**

A chiropractic physician with clinical nutrition certification as defined by Sections 54-704(4), 54-716 and 54-717, Idaho Code, may obtain and independently administer prescription drug products in the practice of chiropractic subject to the conditions below. (3-28-23)

**01. Current Certification in Clinical Nutrition Required.** Only chiropractic physicians who hold current certification in clinical nutrition by the Board may obtain and independently administer prescription drug products during chiropractic practice. To hold a current certification in clinical nutrition, a chiropractic physician must have an active unrestricted license to practice chiropractic. (3-28-23)(    )

**02. Obtain Prescription Drugs Products from the Formulary.** A chiropractic physician with clinical nutrition certification may not obtain or administer a prescription drug product that is not listed in the chiropractic clinical nutrition formulary or otherwise prescribe, dispense, distribute, or direct a patient to use a prescription drug product except as allowed in Section 54-704(5), Idaho Code. (3-28-23)(    )

~~**03. Only Administer Prescription Drug Products from the Formulary.** Chiropractic physicians with clinical nutrition certification may only administer those prescription drug products listed in the chiropractic clinical nutrition formulary.~~ (3-28-23)

~~**a.** Chiropractic physicians with clinical nutrition certification may not prescribe, dispense, distribute, or direct to a patient the use of a prescription drug product except as allowed in Section 54-704(5), Idaho Code.~~ (3-28-23)

~~**04. Routes of Administration and Dosing of Prescription Drug Products.** Prescription drug products listed in the chiropractic clinical nutrition formulary may be administered through oral, topical, intravenous, intramuscular or subcutaneous routes by a chiropractic physician with clinical nutrition certification. The route of administration and dosing are in accordance with the product's labeling as approved by the federal food and drug administration or with the manufacturer's instructions.~~ (3-28-23)

~~**053. Practice Limited to Chiropractic Physicians with Clinical Nutrition Certification.** Chiropractic interns, chiropractic assistants, holders of chiropractic temporary practice permits and others working under the authority or direction of a chiropractic physician may not perform any practice or function requiring clinical nutrition certification.~~ (3-28-23)

~~**06. Sale, Transfer, or Other Distribution of Prescription Drugs Prohibited.** Chiropractic physicians with clinical nutrition certification may obtain and administer prescription drug products to a patient only in accordance with this Section 707. Chiropractic physicians may not prescribe, sell, transfer, dispense, or otherwise distribute prescription drug products to any person or entity. Prescription drug products not administered to a patient are handled in accordance with Subsections 708.05, 708.06, and 708.07.~~ (3-28-23)

**7082. CLINICAL NUTRITION FORMULARY.**

Chiropractic physicians certified in clinical nutrition may obtain and independently administer, during chiropractic practice, only the prescription drug products listed in this chiropractic clinical nutrition formulary and subject to the provisions hereof. (3-28-23)

**01. Chiropractic Clinical Nutrition Prescription Drug Formulary.** Prescription drug products that may be used by chiropractic physicians with clinical nutrition certification are limited to the following: (3-28-23)

**a.** Vitamins: vitamin A, all B vitamins and vitamin C; (3-28-23)

**b.** Minerals: ammonium molybdate, calcium, chromium, copper, iodine, magnesium, manganese, potassium, selenium, sodium, and zinc; (3-28-23)

**c.** Fluids: dextrose, lactated ringers, ~~p~~Plasma ~~H~~Lyte, saline, and sterile water; (3-28-23)(    )

**d.** Epinephrine; and (3-28-23)

**e.** Oxygen for use during an emergency or allergic reaction. (3-28-23)

**02. Sources of Clinical Nutrition Prescription Drug Products.** Prescription drug products listed in the chiropractic clinical nutrition formulary may be obtained only by a chiropractic physician with clinical nutrition certification and only from a source licensed under Chapter 17, Title 54, Idaho Code, that is a wholesale distributor, a

manufacturer, a pharmacy, compounding pharmacy, or an outsourcing facility and from no other source. (3-28-23)

~~03. **No Compounding of Prescription Drug Products.** No vitamin or mineral may be compounded, as defined in Section 54-1705, Idaho Code, by a chiropractic physician. A compounded drug product containing two (2) or more of the vitamins or minerals approved in the chiropractic clinical nutrition formulary may be obtained for office use by a chiropractic physician with clinical nutrition certification only from an outsourcing facility licensed under Chapter 17, Title 54, Idaho Code or compounding pharmacy and from no other source. A chiropractic physician may not obtain or use in chiropractic practice a compounded drug product containing a prescription drug product that is not included in the chiropractic clinical nutrition formulary. (3-28-23)(    )~~

~~04. **Limitations on Possession of Prescription Drug Products.** Possession of prescription drug products without a valid prescription drug order by chiropractic physicians licensed pursuant to Chapter 7, Title 54, Idaho Code, and certified pursuant to Sections 54-708, and 54-717, Idaho Code, or their agents or employees are limited to: (3-28-23)~~

~~a. Only those prescription drug products listed in Sections 54-716, Idaho Code, and in the chiropractic clinical nutrition formulary; (3-28-23)~~

~~b. Only those quantities reasonably required for use in the usual and lawful course of the chiropractic physician's clinical nutrition practice based on the patient panel size and history of orders. (3-28-23)~~

~~05. **Prescription Drug Product Storage.** Clinical nutrition prescription drugs must be stored in accordance with United States Pharmacopeia National Formulary requirements in an area maintained and secured appropriately to safeguard product integrity and protect against product theft or diversion. (3-28-23)~~

~~06. **Expired, Deteriorated, Adulterated, Damaged, or Contaminated Prescription Drug Products.** Expired, deteriorated, adulterated, damaged, or contaminated prescription drug products must be removed from stock and isolated for return, reclamation or destruction. (3-28-23)~~

~~074. **Compliance with Federal and State Requirements.** In addition to the requirements of the Idaho Chiropractic Practice Act and rules of the Board, chiropractic physicians must comply with all federal and state laws, rules and policies governing possession, storage, record keeping, use, and disposal of prescription drug products. (3-28-23)~~

~~709. **MEDICAL WASTE:**~~

~~Chiropractic physicians certified in clinical nutrition must dispose of medical waste during the practice of chiropractic clinical nutrition according to the following protocol: (3-28-23)~~

~~01. **Containers for Non-Sharp, Medical Waste.** Medical waste, except for sharps, must be placed in disposable containers/bags that are impervious to moisture and strong enough to preclude ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling, or transport. The containment system must have a tight fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. (3-28-23)~~

~~02. **Containers for Sharps.** Sharps must be placed in impervious, rigid, puncture resistant containers immediately after use. After use, needles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags and disposed of according to container guidelines. (3-28-23)~~

~~7403. -- 999. (RESERVED)~~

**Appendix A – Chiropractic Physicians Code of Ethics**

**PREAMBLE**

This code of ethics sets forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician must act in the best interest of the patient. This code of ethics is binding on all chiropractic physicians.

### **1. Duty to Report**

A. It is the duty of every licensee to notify the Board through the Division of Occupational and Professional Licenses of any violation of the Chiropractic Act or Board Rules, if the licensee has personal knowledge of the conduct.

B. If a judgment is entered against a licensee in any court, or a settlement is reached on a claim involving malpractice exceeding fifty thousand dollars (\$50,000), a licensee must report that fact to the Board within thirty (30) days. The licensee may satisfy the provision of this subsection if he/she provides the Board with a copy of the judgment or settlement.

C. If convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct, the licensee must report that fact to the board within thirty (30) days following the conviction.

### **2. Advertising of Research Projects**

~~Advertisement of Affiliation with Research Projects.~~ If a licensee advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project, and the person conducting the research. Such statements are to be made available at the request of the Board, to scientific organizations, and to the general public. The advertisement must indicate that it is ~~supported by~~ **for the purpose of** clinical research. Any willful failure to comply with these requirements will be deemed false and deceptive advertising under rule 450. Licensees must comply with all state and federal laws and regulations governing research projects on humans, and will obtain "Institutional Review Board" (IRB) approval as established and set forth in the U.S. Code of Federal Regulations, Title 45, Part 46, Subpart A (45 CFR 46.101-46-505).

### **3. Sexual Misconduct**

The doctor-patient relationship requires the chiropractic physician to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust. ~~This section of the Code of Ethics shall not apply between a chiropractor and their spouse~~ **A chiropractic physician shall wait at least one (1) year ("waiting period") following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.**

For the purposes of this subsection, sexual misconduct is divided into sub-categories based upon the severity of the conduct:

A. Sexual Impropriety. Any behavior such as gestures, expressions, and statements which are sexually suggestive or demeaning to a patient, or which demonstrate a lack of respect for a patient's privacy.

B. Sexual Violation. Physician-patient contact of a sexual nature, whether initiated by the physician or the patient.

~~C. A chiropractic physician shall wait at least one (1) year ("waiting period") following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.~~

### **4. Prepaid Funds**

A chiropractic physician shall promptly refund any unearned fees within thirty (30) days upon request and cancellation of the prepaid contract. A full accounting of the patient account shall be provided to the patient at the time of the refund or upon request.

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**  
**24.09.01 – RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**  
**DOCKET NO. 24-0901-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and Sections 54-1601 through 54-1616, Idaho Code.

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

<b>24.09.01 – Rules of the Board of Examiners of Nursing Home Administrators</b>
<b>Tuesday, July 16, 2024 – 9:00 a.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<a href="#">Virtual Meeting Link</a>
Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a> .

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Examiners of Nursing Home Administrators is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The fees did not increase, but the fee for a temporary permit was removed.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.42](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-0901-2401**  
**(ZBR Chapter Rewrite.)**

**24.09.01 – RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**

**000. LEGAL AUTHORITY.**

These rules promulgated pursuant to Section 54-1604, Idaho Code. (3-28-23)

**001. SCOPE.**

These rules govern the practice of nursing home administration in Idaho. (3-28-23)

**002. -- 099. (RESERVED)**

**100. ~~EXAMINATION FOR LICENSURE.~~**

~~**01. Examination Fee.** The examination fee for the national examination will be in the amount as determined by the National Association of Long Term Care Administration Boards and is paid to the entity administering said examination. The examination fee is in addition to the license fee provided for in Section 54-1604, sub-paragraph (g), Idaho Code. (3-28-23)~~

**01. Exam.** All applicants must pass the approved NAB Nursing Home Administrator exam and Core exam, or other examination as approved by the Board. ( )

**02. Applicant History.** An applicant who has a conviction, finding of guilt, withheld judgment, or suspended sentence for any felony or any crime related to an applicant's fitness for licensure, or whose license has

been subject to discipline in any state, territory, or country must submit with the application a written statement and any supplemental information establishing the applicant's current suitability for licensure. ~~The Board may consider~~ The written statement should include the factors set forth in Section 67-9411, Idaho Code. (3-28-23)(    )

~~03. Contents of Exam, Passing Scores.~~ An applicant must pass an examination issued by NAB, and an examination pertaining to Idaho law and rules governing nursing homes administered by the Board. ~~The passing score of the Idaho Laws and Rules Examination is seventy-five percent (75%).~~ (3-28-23)

~~04. Date and Location of Exam.~~ Examinations are held at the location and at the times determined by the entity administering the national examination. ~~The state examination is a take-home examination and is returned to the Board.~~ (3-28-23)

03. Additional Requirements. Applicants for original licensure must also demonstrate completion of a specialized course of study in nursing home long-term health care administration approved by the Board. Any applicant holding a Health Services Executive (HSE) credential issued by NAB has met all educational and training requirements for licensure in Idaho. (    )

~~101.—199. (RESERVED)~~

**200**101. CONTINUING EDUCATION REQUIREMENTS.

~~01. Educational Requirements.~~ In order to qualify as continuing education, a seminar or course of study ~~will be relevant to nursing home administration as determined by the Board and~~ must be sponsored by an accredited ~~universities~~ university or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service), or as otherwise approved by the Board. (3-28-23)(    )

~~02. Renewal of License.~~ Applicants for renewal of license are required to complete a minimum of twenty (20) clock hours of approved courses within the preceding twelve month (12) period. Licensees are not required to comply with this requirement during the first year in which they become licensed under this chapter. Applicants for renewal of license are required to complete, in a twenty-four (24) month renewal cycle, twelve (12) continuing education hours relevant to nursing home administration. (3-28-23)(    )

~~03. Carryover of Continuing Education Hours.~~ Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one (1) renewal year. (3-28-23)

~~043. Waiver.~~ The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and will provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-28-23)

~~201.—299. (RESERVED)~~

**300. ENDORSEMENT.**

~~Each applicant for licensure by endorsement is required to document compliance with each of the following requirements.~~ (3-28-23)

~~01. A Valid License.~~ Hold a valid and current nursing home administrator license issued in another state or jurisdiction with substantially equivalent licensing standards. (3-28-23)

~~02. Experience/Education.~~ (3-28-23)

~~a. One thousand (1,000) hours of experience as an administrator in training in another state; or~~ (3-28-23)

~~b. A total of one thousand (1,000) hours of combined experience obtained in an administrator in~~

- ~~training program and from practical experience as an administrator in another state; or (3-28-23)~~
- ~~or~~
- ~~e. A master's degree in health administration related to long-term care from an accredited institution; (3-28-23)~~
  - ~~d. A master's degree in health administration or business administration with a healthcare emphasis from an accredited institution and one (1) year management experience in long-term care. (3-28-23)~~
  - ~~03. National Examination. Has taken and successfully passed the NAB examination. (3-28-23)~~
  - ~~04. State Examination. Has taken and successfully completed the state of Idaho examination. (3-28-23)~~
  - ~~05. Criminal History. Applicant is subject to Section 100.02 of these rules. (3-28-23)~~
- ~~301.—399. (RESERVED)~~

**400.102. NURSING HOME ADMINISTRATORS-IN-TRAINING.**

~~01. Supervised Hour Requirements. An individual must successfully complete one thousand (1,000) hours under the direct supervision of a licensed nursing home administrator in compliance with Section 54-1610, Idaho Code, and these rules in order to be eligible to take the examination. (3-28-23)~~

~~021. Trainees. A trainee must work on a full time basis in any capacity in an Idaho licensed nursing home setting. Full time shall be at least a thirty-two (32) hour per week work schedule with consideration for normal leave taken. (3-28-23)( )~~

~~a. Each trainee shall register with the Board as a Nursing Home Administrator-In-Training (AIT) by submitting an application provided by the Board together with the required fee. The effective date of each AIT program shall be the date the Board approves the application. (3-28-23)~~

~~a. Trainees shall submit with their application a declaration signed by the supervising Nursing Home Administrator who shall serve as the preceptor. This declaration shall certify that the supervising administrator has: ( )~~

~~i. licensure in good standing with the State of Idaho. ( )~~

~~ii. two (2) or more years of consecutive employment as a nursing home administrator. ( )~~

~~b. Reports for those trainees employed in a nursing home must be submitted to the Board after completion of each five hundred (500) hour increment and reflect that the preceptor of the trainee has instructed, assisted, and given assignments as deemed necessary to fulfill the requirements of Subsection 400.03 set forth herein. (3-28-23)( )~~

~~032. Nursing Home Administrator-in-Training Requirements. A Nursing Home Administrator-in-Training shall be required to train in all domains of nursing home administration including the following: (3-28-23)~~

~~a. Customer care, support, and services. Care, services, and supports. (3-28-23)( )~~

~~b. Human resources. Operations. (3-28-23)( )~~

~~c. Finance. Environment and quality. (3-28-23)( )~~

~~d. Environment. Leadership and strategy. (3-28-23)( )~~

~~e. Management and leadership. (3-28-23)~~



~~f. Completion of a specialized course of study in nursing home long-term health care administration approved by NAB or otherwise approved by the Board. (3-28-23)~~

~~043. Facility Administrator. The trainee must spend no less than thirty-two (32) hours ~~a~~ per month with the preceptor in ~~a~~ training, duties as assigned, and ~~or observational situation~~ observation in the ~~five~~ four (54) domains of nursing home administration as outlined in ~~Subsection 400.03 herein~~. Time spent with the preceptor must be in addition to the full-time work that the trainee must perform ~~under Subsection 400.02~~, unless the Administrator-in-Training role is designated as a full-time training position. Collectively, during the training period, reports must reflect particular emphasis on all ~~five~~ four (54) domains of nursing home administration during the time spent in the nursing home. (3-28-23)(    )~~

~~05. Preceptor Certification. (3-28-23)~~

~~a. A nursing home administrator who serves as a preceptor for a nursing home administrator in training must be certified by the Board of Examiners of Nursing Home Administrators. The Board will certify the Idaho licensed nursing home administrator to be a preceptor who: (3-28-23)~~

~~i. Is currently practicing as a nursing home administrator and who has practiced a minimum of two (2) consecutive years as a nursing home administrator; and (3-28-23)~~

~~ii. Who successfully completes a six (6) clock hour preceptor orientation course approved by the Board. (3-28-23)~~

~~b. The orientation course will cover the philosophy, requirements and practical application of the nursing home administrator in training program and a review of the six (6) phases of nursing home administration as outlined in Subsection 400.03. (3-28-23)~~

~~e. The preceptor must be re-certified by the Board every ten (10) years. (3-28-23)~~

~~401. — 449. (RESERVED)~~

**450103. ADMINISTRATOR DESIGNEE QUALIFICATION.**

In order to practice as an administrator designee, an individual shall register with the Board as an Administrator Designee by submitting an application and providing documentation of ~~each~~ the following requirements. (3-28-23)(    )

~~01. Criminal History. Applicant is subject to Section 67-9411, Idaho Code. (3-28-23)~~

~~02. Education. Provide proof of either: (3-28-23)~~

~~a. A bachelors degree from an approved college or university, or (3-28-23)~~

~~b. Two (2) years of satisfactory practical experience in nursing home administration or a related health administration area for each year of the required education as set forth in Section 54-1605(3), Idaho Code; (3-28-23)~~

~~041. Experience. Provide proof of having one (1) year of management experience in a skilled nursing facility. Experience documented in Subsection 450.03.b. may also be used to meet this requirement. (3-28-23)(    )~~

~~052. Authorization. Submit an agreement signed by an Idaho Licensed Nursing Home Administrator, in good standing with the State of Idaho, who will act as a consultant to assist the designee in administrating the facility. (3-28-23)(    )~~

~~451104. -- 499599.(RESERVED)~~

**500. PERMITS.**

~~01. Requirements for Issuance. A temporary permit may be issued upon submission of an endorsement application evidencing a license in good standing in another state and payment of fees. The permit shall be valid until the Board acts upon their endorsement application. No more than one (1) temporary permit may be granted to any applicant for any reason. (3-28-23)~~

~~02. Issuance of a Temporary Permit Does Not Obligate the Board. Issuance of a temporary permit does not obligate the board to subsequently issue a license. Issuance of a subsequent license depends upon a successful application to the Board. (3-28-23)~~

~~501. -- 599. (RESERVED)~~

**600. FEES.**

<b>FEE</b>	<b>AMOUNT (Not to Exceed)</b>
Original Application	\$200
Original License	\$200
Annual Renewal	\$200
Endorsement Application	\$200
<del>Temporary Permit</del> <u>Administrator-in-training</u>	\$100
<del>Administrator in training</del> <u>License Reinstatement</u>	\$100
<del>License Reinstatement</del>	\$100

~~(3-28-23)( )~~

~~601. -- 999. (RESERVED)~~

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-2401 (ZBR CHAPTER REWRITE, FEE RULE)

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and Sections 54-4201 through 54-4216, Idaho Code.

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

<b>24.19.01 – Rules of the Board of Examiners of Residential Care Facility Administrators</b>
<b>Tuesday, July 16, 2024 – 9:00 a.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<b>Virtual Meeting Link</b>
<b>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</b>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Examiners of Residential Care Facility Administrators is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The application fee, annual renewal fee, provisional permit fee, and reissuance of lost license fee has been increased from \$150 to \$200.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.42](#).

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

The American College of Health Care Administrators (ACHA) Code of Ethics was incorporated by reference in the administrative rules effective March 28, 2023. That incorporation by reference remains in these proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-1901-2401**  
**(ZBR Chapter Rewrite.)**

**24.19.01 – RULES OF THE BOARD OF EXAMINERS**  
**OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-4205, Idaho Code. (3-28-23)

**001. SCOPE.**

These rules govern the practice of residential care facility administration in Idaho. (3-28-23)

**002. – 003. (RESERVED)**

**004. INCORPORATION BY REFERENCE.**

The document titled “ACHCA Code of Ethics,” published by the American College of Health Care Administrators (ACHCA), ~~current as of May, 2024, as referenced in Section 650,~~ is herein adopted and incorporated by reference and is available from the Board’s office and on the Board web site. (3-28-23)(    )

**005. -- 099. (RESERVED)**

**100. APPLICATIONS LICENSURE.**

**01. Applications.** Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting

documentation is received by the Division. ~~If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon thirty (30) days written notice, unless good cause is established to the Board.~~

~~(3-28-23)( )~~

**02. Qualifications for Administrator License.** To be granted an Administrator License the applicant must: ( )

**a.** Submit a criminal background check by an entity approved by the Board; ( )

**b.** Document completion of a specialized course or program of study as set forth in Subsection 150 of these rules; ( )

**c.** Submit proof that the applicant has passed the Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB), or other examinations as approved by the Board; and ( )

**d.** Any applicant holding a Health Services Executive (HSE) credential issued by NAB has met all educational and training requirements for licensure in Idaho. ( )

**03. Nursing Home Administrator Qualifications for License.** Applicants must take and pass the Board-approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board showing at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. ( )

#### **101. CONTINUING EDUCATION.**

**01. Educational Requirements.** In order to qualify as continuing education, a seminar or course of study must be sponsored by accredited universities or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service), or as otherwise approved by the Board. ( )

**02. Renewal of License.** Applicants for renewal of license are required to complete, in a twenty-four (24) month renewal cycle, twelve (12) job-related continuing education hours relevant to residential care administration. ( )

**03. Waiver.** The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and will provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ( )

~~104~~2. -- 149. (RESERVED)

#### ~~150. QUALIFICATIONS FOR ADMINISTRATOR LICENSE.~~

~~Each applicant for an administrator's license must submit proof, along with their application, that said individual is at least twenty-one (21) years of age and meets all the following qualifications for the issuance of a license: (3-28-23)~~

~~**01. Criminal Background Check.** The applicant must submit a criminal background check by an entity approved by the Board establishing that the applicant has not been convicted, pled guilty or nolo contendere or received a withheld judgment for a felony or any crime involving dishonesty or the health or safety of a person. (3-28-23)~~

~~**02. Education and Experience.** The applicant must document one (1) of the combinations of education and experience in accordance with Section 54-4206, Idaho Code, and Subsection 400 of these rules. (3-28-23)~~

~~**03. Coursework.** The applicant must document completion of a specialized course or program of study~~

~~as set forth in Subsection 400 of these rules. (3-28-23)~~

~~**04. Examination.** The applicant must submit proof of successful passage of a relevant examination as approved by the Board and defined in Subsection 300 of these rules. (3-28-23)~~

~~**151.—159. (RESERVED)**~~

~~**160. NURSING HOME ADMINISTRATOR QUALIFICATIONS FOR LICENSE.**~~

~~Any applicant who holds a valid Idaho nursing home administrator license must meet the requirements provided in Section 54-4211(2), Idaho Code, and must take and pass the Board approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board that he has at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. (3-28-23)~~

~~**161.—299. (RESERVED)**~~

~~**300. EXAMINATIONS.**~~

~~**01. Examination.** The Board approves the following examinations for licensure: (3-28-23)~~

~~**a.** The Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book examination of law and rules governing residential care administrators in Idaho. The passing score for the NAB examination is determined by NAB. An applicant for examination is required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination is seventy five percent (75%). (3-28-23)~~

~~**b.** Other examinations as approved by the Board. (3-28-23)~~

~~**301.—399. (RESERVED)**~~

~~**400**~~**150. EDUCATIONAL AND TRAINING REQUIREMENTS.**

~~**01. Approved Course.** (3-28-23)~~

~~**a.** The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Health Care Association (IHCA), ~~Idaho Center for Assisted Living (ICAL), are~~ is the approved courses of study to qualify for licensure. (3-28-23)(    )~~

~~**b.** ~~Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university must be an approved course of study to qualify for licensure.~~ (3-28-23)~~

~~**02. Approval of Other Courses.** Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. (3-28-23)~~

~~**151. -- 299. (RESERVED)**~~

~~**300. DISCIPLINE.**~~

~~**01. Costs and Fees.** The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (    )~~

~~**401. CONTINUING EDUCATION.**~~

~~01. **Minimum Hours Required.** Applicants for annual renewal or reinstatement are required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve month (12) period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses will not be considered for continuing education credit. (3-28-23)~~

~~02. **Course Approval.** Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations are approved for continuing education credits: (3-28-23)~~

- ~~a. Accredited colleges or universities. (3-28-23)~~
- ~~b. Federal, state or local government entities. (3-28-23)~~
- ~~c. National or state associations. (3-28-23)~~
- ~~d. Otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance. (3-28-23)~~

~~03. **Credit.** Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on line may be approved for continuing education if the courses require an exam or other proof of successful completion. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-28-23)~~

~~04. **Special Exemption.** The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-28-23)~~

~~402. — 449. (RESERVED)~~

~~450. **SCOPE OF PRACTICE.**~~

~~A residential care facility administrator must possess the education, training, and experience necessary to insure that appropriate services and care are provided for each facility resident within any facility under the licensee's administration. Information contained within the application together with supporting documentation maintained by the licensee is prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to maintain adequate documentation of education and experience appropriate to the planning, organizing, directing and control of the operation of a residential care facility. (3-28-23)~~

~~451-301. -- 500-399.(RESERVED)~~

~~600-400. FEES.~~

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$ <del>150</del> <u>200</u>
Annual Renewal	\$ <del>150</del> <u>200</u>
Provisional Permit	\$ <del>150</del> <u>200</u>
Reissuance of Lost License	\$10
Reinstatement	As provided in Section 67-2614, Idaho Code

~~(3-28-23)( )~~

~~601-401.~~ -- ~~649-999.~~(RESERVED)

~~650.~~ **DISCIPLINE.**

~~01. **Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. (3-28-23)~~

~~02. **Costs and Fees.** The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (3-28-23)~~

~~03. **Code of Ethics.** The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics is considered grounds for disciplinary action. (3-28-23)~~

~~651.—999.~~ **(RESERVED)**



# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

### DOCKET NO. 24-2201-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as 54-5301 through 54-5318, Idaho Code.

**MEETING SCHEDULE:** A public hearing on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website: <https://dopl.idaho.gov/calendar/> and [townhall.idaho.gov](https://townhall.idaho.gov).

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

**Tuesday, July 9, 2024 – 9:00 a.m. (MT)**  
**Division of Occupational and Professional Licenses**  
**Chinden Campus Building 4, Eagle Rock Room**  
**11341 W. Chinden Blvd.**  
**Boise, ID 83714**

[Virtual Meeting Link](#)

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The negotiated rulemaking is being presented as part of the DOPL plan to review each rule chapter every 5 years. There are no specific rulemaking changes planned by DOPL at this time except for evaluation and amendment consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. DOPL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief, Bureau of Administration  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD

### DOCKET NO. 24-2401-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, and Sections 54-5601 through 54-5616, Idaho Code.

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

<b>24.24.01 – Rules of the Genetic Counselors Licensing Board</b>
<b>Tuesday, July 16, 2024 – 9:00 a.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<b>Virtual Meeting Link</b>
<b>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</b>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Genetic Counselors Licensing Board is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The fees did not change.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.42](#).

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

The National Society of Genetic Counselors Code of Ethics April 2017 edition was incorporated by reference in the administrative rules effective March 28, 2023. That incorporation by reference remains in these proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-2401-2401**  
**(ZBR Chapter Rewrite.)**

**24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Title 54, Chapter 56, Idaho Code. (3-28-23)

**001. SCOPE.**

These rules regulate the profession of genetic counseling in the interest of the public health, safety, and welfare. (3-28-23)

**002. INCORPORATION BY REFERENCE.**

The document titled “National Society of Genetic Counselors Code of Ethics,” ~~adopted January 1992 and revised December 2004, January 2006, and dated~~ April 2017, is incorporated by reference into this rule and is available at the Board’s office and on the Board’s web site. (3-28-23)( )

**003. -- ~~249099~~. (RESERVED)**

**100. LICENSURE.**

**01. General. An applicant who in any state, territory, or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony must submit with his application a written statement and any supplemental information establishing his current suitability for licensure.**

( )

**02. Education.** An applicant must hold a master’s degree or higher in genetics from an American Board of Genetic Counseling (ABGC), American Board of Medical Genetics (ABMG), Accreditation Council for Genetic Counseling (ACGC), or National Society of Genetic Counselors (NSGC) accredited program or master’s degree or higher in a related field of study as approved by the Board. ( )

**03. Examination.** An applicant must pass an ABGC or ABMG administered genetic counselor certification exam, or another exam approved by the board. ( )

**04. Certification.** An applicant must provide proof of current certification from the ABGC or ABMG. ( )

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**01. Unprofessional and Unethical Conduct.** Unprofessional and unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the (NSGC) Code of Ethics, incorporated by reference into Section 002 of these rules and approved by the Board as the Idaho Code of Ethics. ( )

**201. -- 399. (RESERVED)**

**250400. FEES.**

All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. Fees are established in accord with Section 54-5613, Idaho Code as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Provisional License	\$200
License by Endorsement	\$200
Examination Reinstatement	Determined by third-party examination administrator As provided in Section 67-2614, Idaho Code
Reinstatement	As provided in Section 67-2614, Idaho Code

(3-28-23)( )

**251401. -- 299999.(RESERVED)**

**300. REQUIREMENTS FOR ORIGINAL LICENSURE.**

**01. General.** An applicant who in any state, territory or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony or a lesser crime conviction must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. (3-28-23)

**02. Consideration of Factors and Evidence.** The Board will consider the factors set forth in Section

~~67-9411, Idaho Code. (3-28-23)~~

~~03. **Interview.** The Board may, at its discretion, grant an interview of the applicant. (3-28-23)~~

~~04. **Applicant Bears the Burden.** The applicant will bear the burden of establishing his current suitability for licensure. (3-28-23)~~

~~05. **Education.** An applicant must hold a master's degree or higher in genetics from an American Board of Genetic Counseling (ABGC), American Board of Medical Genetics (ABMG), Accreditation Council for Genetic Counseling (ACGC), or National Society of Genetic Counselors (NSGC) accredited program or master's degree or higher in a related field of study as approved by the Board. (3-28-23)~~

~~06. **Examination.** An applicant must pass an ABGC or ABMG administered genetic counselor certification exam. The passage of the exam may have occurred prior to the effective date of these rules. (3-28-23)~~

~~07. **Certification.** An applicant must provide proof of current certification from the ABGC or ABMG. (3-28-23)~~

~~301.—309. (RESERVED)~~

~~**310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.**~~

~~The Board may grant a license to an applicant for licensure by endorsement who meets the following requirements: (3-28-23)~~

~~01. **General.** Meets the requirements prescribed in Subsection 300.01 of these rules; and (3-28-23)~~

~~02. **Holds a Current License.** The applicant must be the holder of a current active license in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity of another state, territory, or jurisdiction. The state, territory, or jurisdiction must have licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency. (3-28-23)~~

~~**311. REQUIREMENTS FOR PROVISIONAL LICENSE.**~~

~~The Board may issue a provisional license to allow a person who has been granted active candidate status to engage in the practice of genetic counseling. The holder of a provisional license may only practice under the general supervision of a person fully licensed under this chapter or a physician licensed in this state. (3-28-23)~~

~~01. **General.** Meets the requirements prescribed in Subsection 300.01 of these rules; and (3-28-23)~~

~~02. **Supervision.** While the provisional licensee is providing genetic counseling services, the licensee's supervisor need not be physically present; however, the supervisor must be readily accessible to the provisional licensee by telephone or by electronic means for consultation and assistance. (3-28-23)~~

~~**312. INACTIVE STATUS.**~~

~~01. **Request for Inactive Status.** Licensees requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. (3-28-23)~~

~~02. **Inactive License Status.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. (3-28-23)~~

~~03. **Reinstatement to Full Licensure from Inactive Status.** An inactive licensee may reinstate to active status by submitting a completed, board approved application and paying the appropriate fee, provide proof of ABGC certification and one (1) year of continuing education immediately preceding application. (3-28-23)~~

~~313.—499. (RESERVED)~~

**500. CONTINUING EDUCATION.**

All licensees must comply with the following continuing education requirements: (3-28-23)

**01. Requirement.** Beginning with the second renewal of their license, a licensee will be required to complete a minimum of two (2) Continuing Education Units (CEUs) within the preceding twelve (12) months or one (1) CEU and one (1) Professional Activity Credit (PAC) within the preceding twelve (12) months. (3-28-23)

**02. Documentation.** Each licensee will maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-28-23)

**a.** Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. (3-28-23)

**b.** A licensee must submit the verification documentation to the Board, if requested by the Board. If a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (3-28-23)

**03. Waiver.** The Board may for good cause waive the requirements of this rule. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-28-23)

**04. Carryover of Continuing Education Hours.** CEUs and PACs not claimed in the current renewal year may be claimed in the next renewal year. A maximum of two (2) CEUs or one (1) PAC and one (1) CEU may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-28-23)

~~501.—699. (RESERVED)~~

**700. UNPROFESSIONAL AND UNETHICAL CONDUCT.**

Unprofessional and unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the (NSGC) Code of Ethics, incorporated by reference into Section 002 of these rules and approved by the Board as the Idaho Code of Ethics. (3-28-23)

~~701.—899. (RESERVED)~~

**900. DISCIPLINE.**

**01. Disciplinary Action.** If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 56, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee. (3-28-23)

~~901.—999. (RESERVED)~~

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE PRACTICE OF MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO

DOCKET NO. 24-3301-2401 (ZBR CHAPTER REWRITE, FEE RULE)

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-1806, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, 54-1841, 54-1867, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<p style="text-align: center;"><b>24.33.01 – Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho</b></p>
<p style="text-align: center;"><b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b></p> <p style="text-align: center;"><a href="#">Virtual Meeting Link</a></p> <p>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01. It also amended the rules in response to recent statutes passed by the Idaho legislature: H0542a (2024) and H0062 (2023).

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

The proposed rules create new license types of a three-year provisional license for international physicians, pursuant to H0542a (2024), and a single-year license for bridge year physicians, pursuant to H0062 (2023), and impose new fees of up to \$300 for each license type, consistent with the statutes.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.



**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3301-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE OF**  
**MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 6-1002, 54-1806(2), ~~54-1806(4)~~, ~~54-1806(11)~~, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, ~~and~~ 54-1841, and 54-1867 Idaho Code. ~~(3-28-23)( )~~

**001. SCOPE.**

These rules govern the ~~licensure to~~ practice of medicine and osteopathic medicine in Idaho. Nothing in this rule chapter authorizes the practice of medicine or any of its branches by a person not so licensed by the Board. ~~(3-28-23)( )~~

~~002. — 009.~~ **(RESERVED)**

~~010~~02. **DEFINITIONS.**

**01. Ablative. The separation, eradication, removal, or destruction of human tissue. ( )**

**02. Acceptable International School of Medicine. An international medical school located outside the United States or Canada that meets the standards for medical educational facilities set forth in Subsection ~~051~~**

~~100.~~02 and is accredited by the ECFMG. (3-28-23)( )

~~02.~~ **Medical Practice Act.** Title 54, Chapter 18, Idaho Code. (3-28-23)

~~242.~~ **DEFINITIONS RELATED TO INTERNS AND RESIDENTS.**

~~043.~~ **Acceptable Intern or Resident Training Program.** A medical training program or course of medical study that has been approved by the LCME, Council on Medical Education or COCA of the AOA. (3-28-23)( )

~~024.~~ **Acceptable Postgraduate Training Program.** A post graduate medical training program or course of medical study that has been approved by the ACGME or AOA. (3-28-23)( )

~~151.~~ **DEFINITIONS RELATING TO SUPERVISING AND DIRECTING PHYSICIANS.**

~~01.~~ **Athletic Trainer.** A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. (3-28-23)

~~05.~~ **Cosmetic Treatment.** An aesthetic treatment prescribed by a physician for a patient that uses prescriptive medical/cosmetic devices or products to penetrate or alter human tissue. ( )

~~026.~~ **Directing Physician.** A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. ~~This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.~~ (3-28-23)( )

~~07.~~ **Incisive.** The power and quality of cutting of human tissue. ( )

~~038.~~ **Medical Personnel.** An individual who, under the direction and supervision of a supervising physician, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board, provides cosmetic treatments using prescriptive medical/cosmetic devices and products that are exclusively non-incisive or non-ablative under the direction and supervision of a supervising physician, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board to patients. (7-1-24)( )

~~09.~~ **Parenteral Admixture.** A preparation of sterile products intended for administration by injection. ( )

~~10.~~ **Prescriptive Medical/Cosmetic Device.** An FDA-approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. ( )

~~11.~~ **Prescriptive Medical/Cosmetic Product.** An FDA-approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. ( )

~~0412.~~ **Supervising Physician of Interns or Residents.** Any person approved by the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of an intern or resident, and who is responsible for the direction and supervision of their activities. (7-1-24)

~~0513.~~ **Supervising Physician of Medical Personnel.** An Idaho licensed physician who supervises and has full responsibility for ~~cosmetic treatments using prescriptive medical/cosmetic devices and products~~ provided by medical personnel. (7-1-24)( )

~~04103.~~ **ABBREVIATIONS.**

- 01. ACGME. Accreditation Council for Graduate Medical Education. (3-28-23)
- 02. AOA. American Osteopathic Association. (3-28-23)
- 03. COCA. Commission on Osteopathic College Accreditation. (3-28-23)
- 04. ECFMG. Educational Commission for Foreign Medical Graduates. (3-28-23)
- 05. FAIMER. Foundation for Advancement of International Medical Education. (3-28-23)
- ~~06.~~ FDA. United States Food and Drug Administration. ( )
- ~~067.~~ FSMB. Federation of State Medical Boards. (3-28-23)
- ~~078.~~ LCME. Liaison Committee on Medical Education. (3-28-23)
- ~~089.~~ USMLE. United States Medical Licensing Exam. (3-28-23)
- ~~0910.~~ WFME. World Federation for Medical Education. (3-28-23)

~~01204.~~ -- ~~04999.~~ (RESERVED)

**100. LICENSURE.**

**05001. General Qualifications for Licensure and Renewal.** ( )

~~Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board approved forms.~~ (3-28-23)

~~01. Additional Circumstances. The Board may require further inquiry when in its judgment the need is apparent as outlined in Board policy.~~ (3-28-23)

a. Residence. No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States. ( )

02b. Special Purpose Examination. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. (3-28-23)

03c. Board Determinations. ~~Where~~ When the Board deems necessary, it may limit, condition, or restrict a newly issued license based on the Board's determination and the recommendation of the assessment or evaluation. (3-28-23)( )

04d. Postgraduate Training Program. Successful completion of one year of a medical residency or internship program constitutes successful completion of a postgraduate training program acceptable to the Board. (3-28-23)

**05102. Licensure for Graduates of International Medical Schools Located Outside of the United States and Canada.** ( )

01a. International Medical Graduate. In addition to meeting the ~~requirements of Section 050 General Qualifications for Licensure and Renewal~~, graduates of international medical schools located outside of the United States and Canada, who do not meet the requirements set forth in Section 54-1812, Idaho Code, must submit to the Board: (3-28-23)( )

~~ii.~~ Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the USMLE; (3-28-23)

~~bii.~~ Original documentation directly from the international medical school that establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection ~~051.02~~ 100.02.b. of this Rule; (~~3-28-23~~)(    )

~~iii.~~ A transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (3-28-23)

~~iv.~~ Original documentation of successful completion of two (2) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada or its successor organization, provided however, a resident who is attending an Idaho based residency program may be licensed after successful completion of one (1) years of progressive post graduate training, if the following conditions are met: (3-28-23)

~~i.(1)~~ Written approval of the residency program director; (3-28-23)

~~ii.(2)~~ Signed written contract with the Idaho residency program to complete the entire residency program; (3-28-23)

~~iii.(3)~~ Remained in good standing at the Idaho-based residency program; (3-28-23)

~~iv.(4)~~ Notified the Board within thirty (30) days if there is a change in circumstances or affiliation with the program; and (3-28-23)

~~v.(5)~~ Received an MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. (~~3-28-23~~)(    )

~~02b.~~ International Medical School Requirements. An international medical school must be listed in the World Directory of Medical Schools, a joint venture of WFME and FAIMER. Graduates of schools not listed in WFME or FAIMER must submit to the Board original documentation of three (3) of the four (4) requirements listed below: (3-28-23)

~~i.~~ A valid ECFMG Certificate. (3-28-23)

~~bii.~~ Successful completion of three (3) years of progressive post graduate training at one (1) training program accredited for internship, residency or fellowship training in an ACGME or AOA or Royal College of Physicians and Surgeons of Canada or its successor organization's approved program. (3-28-23)

~~iii.~~ Current board certification by a specialty board approved by the American Board of Medical Specialties or the AOA. (3-28-23)

~~iv.~~ Evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. (3-28-23)

~~243~~03. Temporary Registration. (    )

~~04a.~~ Eligibility. Any person ~~identified in Section 54-1813(2), Idaho Code practicing under the supervision of an Idaho-licensed physician as part of a postgraduate medical training program.~~ (~~7-1-24~~)(    )

~~02b.~~ Registration Certificate. Each registration will be issued for a period of one (1) year and will identify the supervising physician. Each registrant will notify the Board in writing of any change of the supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the

applicant qualified, and if the course of study requires, the Board may additionally certify on the registration certificate that the registrant is qualified to write prescriptions for Class III through Class V scheduled medications. (7-1-24)

**03c.** Discipline. Registrations may be terminated, suspended, or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code. (7-1-24)

**04d.** Annual Renewal. Registration may be renewed annually and, if not renewed by the expiration date, will be canceled. (7-1-24)

**05e.** Notification of Changes. Registrants must notify the Board in writing of any adverse action or termination, whatever the outcome, from any post graduate training program and any name changes within fourteen (14) days of such event. (7-1-24)

**06f.** Disclosure. A registrant must ensure patients are informed that the registrant is currently enrolled in a post graduate training program and working under the supervision of a licensed physician. (7-1-24)

~~052. -- 078.~~ (RESERVED)

~~079~~**04.** Continuing Medical Education (CME) ~~Required~~ **Requirements.** ( )

~~01a.~~ Renewal. ~~Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years.~~ (3-28-23)

~~02.~~ **Verification of Compliance.** Licensees will, at Prior to license renewal, each licensee shall provide an attestation to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. that they have either: (3-28-23)( )

i. Completed no less than forty (40) hours of practice-relevant CME during the prior two (2) years; ( )

~~03ii.~~ **Alternate Compliance.** The Board may accept Maintained current board certification ~~or recertification by a member of~~ from the American Board of Medical Specialties, the AOA, or the Royal College of Physicians and Surgeons of Canada or its successor organization; or ( )

~~iii.~~ ~~in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The Board may also grant an exemption for~~ Participated full time ~~participation~~ in a residency or fellowship training program at a professionally accredited institution. (3-28-23)( )

~~b.~~ **Verification of Compliance.** The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. ( )

~~04.~~ **Penalties for Noncompliance.** The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of this chapter. (3-28-23)

~~101. -- 150~~**99.** (RESERVED)

**200.** **PRACTICE STANDARDS.**

~~162~~**01.** Duties of Collaborating Physicians. ( )

**01a.** Responsibilities. A collaborating physician is responsible for complying with the requirements set forth in Title 54, Chapter 18 and IDAPA 24.33.02 when collaborating and consulting in the medical services provided by any physician assistant or graduate physician assistant either through a collaborative practice agreement or through the facility bylaws or procedures of any facility with credentialing and privileging systems. (3-28-23)

**~~161~~02. Duties ~~O~~of Directing Physicians. ( )**

**~~01~~a.** Responsibilities. The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which include, but are not limited to: (3-28-23)

**~~a~~i.** An on-site visit at least semiannually to personally observe the quality of athletic training services provided; and (3-28-23)

**~~b~~ii.** Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. (3-28-23)

**~~02~~b.** Scope of Practice. The directing physician must ensure the scope of practice of the athletic trainer, as set forth in IDAPA 24.33.05, and Section 54-3903, Idaho Code, will be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. (3-28-23)

**~~03~~c.** Directing Responsibility. The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval. (3-28-23)

**~~04~~d.** Available Supervision. The directing physician will oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer will be outlined in an athletic training service plan or protocol, as set forth in IDAPA 24.33.05. (3-28-23)

**~~05~~e.** Disclosure. It is the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. (3-28-23)

**~~163~~03. Duties ~~O~~of Supervising Physicians ~~O~~of Interns ~~A~~and Residents. ( )**

**~~01~~a.** Responsibilities. The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern or resident. The direction and supervision of such activities include, but are not limited to: (3-28-23)

**~~a~~i.** Synchronous direct communication at least monthly with intern or resident to ensure the quality of care provided; (3-28-23)

**~~b~~ii.** Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and (3-28-23)

**~~e~~iii.** Regularly scheduled conferences between the supervising physician and the intern or resident. (3-28-23)

**~~02~~b.** Available Supervision. The supervising physician will oversee the activities of the intern or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern or resident. (3-28-23)

**~~03~~c.** Disclosure. It is the responsibility of each supervising physician to ensure that each patient who receives the services of an intern or resident is notified of the fact that said person is not a licensed physician. (3-28-23)

**~~164~~04. Duties of Supervising Physicians ~~O~~of Medical Personnel. ( )**

**~~a~~.** Purpose. The “practice of medicine,” as defined in Section 54-1803(1), Idaho Code, includes the

~~administration of parenteral admixtures and the~~ performance of cosmetic treatments using prescriptive medical/cosmetic devices and products which penetrate ~~and or~~ alter human tissue. Such ~~cosmetic~~ treatments can ~~result in lead to significant~~ complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation ~~that may result in permanent injury or death~~ and, therefore, can only be performed as set forth herein. ~~This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.~~ (3-28-23)(    )

~~01. Definitions. (3-28-23)~~

~~a. Ablative. Ablative is the separation, eradication, removal, or destruction of human tissue. (3-28-23)~~

~~b. Incisive. Incisive is the power and quality of cutting of human tissue. (3-28-23)~~

~~c. Cosmetic Treatment. An aesthetic treatment prescribed by a physician for a patient that uses prescriptive medical/cosmetic devices and/or products to penetrate or alter human tissue. (3-28-23)~~

~~d. Prescriptive Medical/Cosmetic Device. A federal food and drug administration approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. (3-28-23)~~

~~e. Prescriptive Medical/Cosmetic Product. A federal food and drug administration approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. (3-28-23)~~

~~02b. Duties and Responsibilities of Supervising Physicians. The supervising physician accepts full responsibility for all treatments provided by medical personnel and for the supervision of such treatments. The supervising physician must be trained in the safety and use of prescriptive medical/cosmetic devices and products. (3-28-23)(    )~~

~~a.i. Patient Record. The supervising physician must document an adequate legible patient record of his evaluation, assessment, and plan for the patient prior to the initial ~~cosmetic~~ treatment. (3-28-23)(    )~~

~~b. Supervisory Responsibility. A supervising physician of medical personnel may not supervise more than three (3) such medical personnel contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate cosmetic treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-28-23)~~

~~e.ii. Available Supervision. The supervising physician will be on-site or immediately available to respond promptly to any questions or problems that may occur while a ~~cosmetic~~ treatment is being performed by medical personnel. Such supervision includes, but is not limited to: (3-28-23)(    )~~

~~i.(1) Periodic review of the medical records to evaluate the prescribed ~~cosmetic~~ treatments that are provided by such medical personnel including any adverse outcomes or changes in the treatment protocol; and (3-28-23)(    )~~

~~ii.(2) Regularly scheduled conferences between the supervising physician and such medical personnel. (3-28-23)~~

~~e.iii. Verification of Training. The supervising physician is responsible to ensure that, with respect to any treatment performed, the medical personnel possess the proper training to perform the treatment, the indications for the prescribed treatment, and the pre- and post-procedure care involved. The supervising physician will verify the training of medical personnel upon the board-approved Medical Personnel Supervising Physician Registration form. The Medical Personnel Supervising Physician Registration Form will be maintained on file at each practice location and at the address of record of the supervising physician. (3-28-23)(    )~~

**div.** ~~Scope of~~ Cosmetic Treatments.- ( )

**(1)** **Scope.** Cosmetic treatments can only be performed by a physician or by medical personnel under the supervision of a physician. Physicians who supervise cosmetic treatments must be trained in the safety and use of prescriptive medical/cosmetic devices and products. Medical personnel providing cosmetic treatments are limited to using prescriptive medical/cosmetic devices and products that are exclusively non-incisive and non-ablative. The supervising physician will ensure cosmetic treatments provided by medical personnel are limited to and consistent with the scope of practice of the supervising physician. ~~The supervising physician will ensure that, with respect to each procedure performed, the medical personnel possess the proper training in cutaneous medicine, the indications for the prescribed treatment, and the pre- and post-procedure care involved.~~ (3-28-23)( )

**(2)** **Supervision.** A supervising physician of medical personnel may not supervise more than three (3) medical personnel providing cosmetic treatments contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. ( )

**fv.** **Disclosure.** It is the responsibility of each supervising physician to ensure that every patient receiving ~~a cosmetic treatment~~ from medical personnel is advised of the education and training of the medical personnel rendering the treatment and that such medical personnel are not licensed physicians. (3-28-23)( )

**gvi.** **Patient Complaints.** The supervising physician will report to the Board of Medicine all patient complaints received against medical personnel that relate to the quality and nature of ~~cosmetic~~ treatments rendered. (3-28-23)( )

**hvi.** **Duties and Responsibilities Nontransferable.** The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician or person. (3-28-23)

**165201.** -- **24199.**(RESERVED)

**300.** **DISCIPLINE.**

In addition to the grounds for discipline set forth in Idaho Code, every person licensed or permitted by the Board is subject to discipline upon any of the following grounds: ( )

**01.** **Unethical Advertising.** Advertising the licensee or permittee's practice in any unethical or unprofessional manner, including but not limited to: ( )

**a.** Using advertising or representations likely to deceive, defraud, or harm the public. ( )

**b.** Making a false or misleading statement regarding the licensee or permittee's skill or the efficacy or value of the treatment, remedy, or service offered, performed, or prescribed by the licensee or permittee. ( )

**03.** **Standard of Care.** Providing health care that fails to meet the standard of health care provided by other qualified licensees or permittees of the same profession, in the same community or similar communities, including but not limited to: ( )

**a.** Being found mentally incompetent or insane by any court of competent jurisdiction. ( )

**b.** Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice his or her profession. ( )

**c.** Allowing another person or organization to use his or her license or permit to practice his or her profession. ( )

**d.** Prescribing, selling, administering, distributing or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to himself or herself or to a spouse, child, or stepchild.



- ( )
- e. Using any controlled substance or alcohol to an extent that use impairs the licensee or permittee's ability to practice his or her profession competently. ( )
- f. Violating any state or federal law or regulation relating to controlled substances. ( )
- g. Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. ( )
- h. Failure to transfer pertinent and necessary medical records to another provider when requested to do so by the subject patient or client or by his or her legally designated representative. ( )
- i. Failing to maintain adequate records. Adequate patient or client records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care. ( )
- j. Providing care or performing any service outside the licensee or permittee's scope of practice as set forth in Idaho Code, including providing care or performing a service without supervision, if such is required by Idaho Code or Board rule. ( )
- k. Failing to have a supervising or directing physician who is licensed by the Board, if such supervision is required by Idaho Code or Board rule. ( )
- 04. Conduct. Engaging in any conduct that constitutes an abuse or exploitation of a patient or client arising out of the trust and confidence placed in the licensee or permittee by the patient or client, including but not limited to:** ( )
- a. Obtaining any fee by fraud, deceit, or misrepresentation. ( )
- b. Employing abusive billing practices. ( )
- c. Commission of any act of sexual contact, misconduct, exploitation, or intercourse with a patient or client or former patient or client or related to the licensee's practice. ( )
- i. Consent of the patient or client shall not be a defense. ( )
- ii. This section does not apply to sexual contact between a licensee or permittee and the licensee or permittee's spouse or a person in a domestic relationship who is also a patient or client. ( )
- iii. A former patient or client includes a patient or client for whom the licensee or permittee has provided services related to the licensee or permittee's practice, including prescriptions, within the last twelve (12) months; sexual or romantic relationships with former patients or clients beyond that period of time may also be a violation if the licensee or permittee uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient or client. ( )
- d. Accepting any reimbursement for service, beyond actual expenses, while providing services under a volunteer license. ( )
- e. Employing, supervising, directing, aiding, or abetting a person not licensed or permitted in this state who directly or indirectly performs activities or provides services requiring a license or permit. ( )
- f. Failing to report to the Board any known act or omission of a Board licensee or permittee that violates any provision of these rules. ( )
- g. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or client, Board or Advisory Board or Committee member, Board

~~staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action.~~ ( )

~~h. Failing to obey any and all state and local laws and rules related to the licensee or permittee's practice or profession.~~ ( )

~~05. Failure to Cooperate. Failing to cooperate with the Board during any investigation or disciplinary proceeding, even if such investigation or disciplinary proceeding does not personally concern the particular licensee.~~ ( )

~~06. On-Site Review. The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of its licensees at the locations and facilities in which the licensees practice at such times as the Board deems necessary.~~ ( )

~~301. -- 399. (RESERVED)~~

~~1400. FEES—TABLE.~~

~~01. Fees—Table.~~ Nonrefundable fees are as follows:

Fees – Table <del>(Non-Refundable)</del>		
Licensure Fee	-	Not more than \$600
<del>Provisional License</del>	<del>=</del>	<del>Not more than \$300</del>
Temporary License	-	Not more than \$300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than \$300
<del>Inactive License Renewal Fee</del>	<del>=</del>	<del>Not more than \$100</del>
Renewal of License to Practice Medicine Fee	-	Not more than \$300
<del>Duplicate Wallet License</del>	<del>=</del>	<del>Not more than \$20</del>
<del>Duplicate Wall Certificate</del>	<del>=</del>	<del>Not more than \$50</del>
Volunteer License Application Fee	-	\$0
Volunteer License Renewal Fee	-	\$0
<del>Limited License for Bridge Year Physicians</del>	<del>=</del>	<del>Not more than \$300</del>
<del>Temporary Registration</del>	<del>=</del>	<del>Not more than \$25</del>

~~(3-28-23)( )~~

~~02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost.~~ (3-28-23)

*[existing Section 151 has been moved under proposed Section 002]*

~~152.—160. (RESERVED)~~

*[existing Sections 161-164 have been moved under proposed Section 200]*

~~165.—241. (RESERVED)~~

*[existing Sections 242-243 have been moved under proposed Sections 002 & 100, respectively]*

**244. FEES TABLE.**

Nonrefundable fees are as follows:

Fees	
Temporary Registration	- \$25 annually

(7-1-24)

**245~~401~~. -- 9799. (RESERVED)**

**0800. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF ~~MEDICAL MALPRACTICE CLAIMS.~~**

**01. Eligibility Obligation.** A physician licensed to practice medicine or osteopathic medicine in Idaho must be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim.

(3-28-23)(    )

**02. Excusing Physicians from Serving.** A physician panelist so selected must serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist must present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman has the sole authority to excuse a selected physician from serving on a prelitigation panel.

(3-28-23)

**03. Penalties for Noncompliance.** The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim.

(3-28-23)

**0801. -- 0999. (RESERVED)**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.02 – RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

### DOCKET NO. 24-3302-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-1806, 54-1807A, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>24.33.02 – Rules for the Licensure of Physician Assistants</b>
<b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<a href="#">Virtual Meeting Link</a>
Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a> .

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3302-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.02 – RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 54-1806 ~~and 54-1807A, 54-1810A~~ Idaho Code. ~~(3-28-23)~~( )

**001. SCOPE.**

These rules govern the practice of physician assistants and graduate physician assistants. (3-28-23)

~~002.—009.~~ **(RESERVED)**

~~010.~~ **DEFINITIONS.**

~~01.~~ **Approved Program.** A course of study for the education and training of physician assistants that is accredited by the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or predecessor agency or equivalent agency recognized by the Board as recommended by the Committee. (3-28-23)

~~011.—019.~~ **(RESERVED)**

~~020.~~ **REQUIREMENTS FOR LICENSURE.**

Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board approved forms. (3-28-23)

~~021-002.~~ -- ~~027-029.~~ **(RESERVED)**

**100. LICENSURE.**

~~01. Acceptable Examination. National Commission on Certification of Physician Assistants (NCCPA) Physician Assistant National Certifying Examination (PANCE). ( )~~

~~02. Graduate Physician Assistant. ( )~~

~~104. -- 199. (RESERVED)~~

~~200. PRACTICE STANDARDS.~~

~~028. SCOPE OF PRACTICE.~~

~~01. Scope. The scope of practice of physician assistants and graduate physician assistants includes only those duties and responsibilities identified in a collaborative practice agreement or the facility bylaws or procedures of any facility with credentialing and privileging systems. (3-28-23)~~

~~021. Collaborative Practice Agreement. A collaborative practice agreement will comply with Title 54, Chapter 18, Idaho Code and, in addition to complying Idaho Code \*54-1807A(2) will contain the following elements: (3-28-23)( )~~

~~a. The parties to the agreement; (3-28-23)~~

~~b. The authorized scope of practice for each licensed physician assistant or graduate physician assistant; (3-28-23)~~

~~e. A requirement that the physician assistant or graduate physician assistant must collaborate with, consult with, or refer to the collaborating physician or another appropriate physician as indicated by: the condition of the patient; the education, experience and competence of the physician assistant or graduate physician assistant; and the community standard of care; and (3-28-23)~~

~~d.c. If necessary, any monitoring parameters. (3-28-23)~~

~~032. Advertise. No physician assistant or graduate physician assistant may advertise or represent himself either directly or indirectly, as a physician. (3-28-23)~~

~~043. Emergency or Disaster Care. A collaborative practice agreement is not necessary for a licensed physician assistant or graduate physician assistant to render medical services to an ill or injured person at the scene of an emergency or disaster (not to be defined as an emergency situation which occurs in the place of one's employment) and while continuing to care for such person. (3-28-23)~~

~~029. CONTINUING EDUCATION REQUIREMENTS.~~

~~04. Continuing Education Requirements. Requirements for Renewal. Prior to renewal of each a license as set forth by the expiration date on the face of the certificate, physician assistants shall attest to maintenance of current certification by the National Commission on Certification of Physician Assistants or a similar certifying agency approved by the Board, which certification requires a minimum of one hundred (100) hours of continuing medical education over a two-year (2) period. (3-28-23)~~

~~030. — 035. (RESERVED)~~

~~036. GRADUATE PHYSICIAN ASSISTANT.~~

~~01. Licensure Prior to Certification Examination — Board Consideration. Any person who has graduated from an approved physician assistant training program and substantially meets all Idaho the requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, set forth in 54-1803(10)(a) may be considered by apply to the Board for licensure as a graduate physician assistant for six (6) months when an application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee, provided: (3-28-23)( )~~

~~a.~~ The applicant will submit to the Board, ~~within ten (10) business days of receipt,~~ a copy of acknowledgment of sitting for the national certification examination. ~~The applicant will submit to the Board, within ten (10) business days of receipt, a copy of the national certification examination results.~~ (3-28-23)

~~b.~~ After the graduate physician assistant has passed the certification examination, the Board will receive verification of national certification directly from the certifying entity. Once the **Upon primary source** verification is received of passing the examination by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority. (3-28-23)(    )

~~c.~~ The applicant who has failed the certification examination one (1) time, may petition the Board for a one time extension of his graduate physician assistant license for an additional six (6) months. (3-28-23)

~~d.~~ If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license will automatically be canceled upon receipt of the second failing certification examination score. (3-28-23)

~~e.~~ The graduate physician assistant applicant will agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. (3-28-23)

~~02. Licensure Prior to College Baccalaureate Degree — Board Consideration.~~ Licensure as a graduate physician assistant may also be considered upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when all application requirements have been met as set forth in Section 020 of these rules, except receipt of documentation of a college baccalaureate degree, provided: (3-28-23)

~~a.~~ A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; (3-28-23)

**035. No-Graduate Physician Assistant Prescribing Authority.** Graduate physician assistants shall not be entitled to issue any written or oral prescriptions ~~unless granted an exemption by the Board. Application for an exemption must be in writing and accompany documentation of a minimum of five (5) years of recent practice as a physician assistant in another state.~~ (3-28-23)(    )

~~037~~**201.** -- ~~050~~**399.**(RESERVED)

**051**~~400.~~ **FEES — TABLE.**

Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Licensure Fee - Physician Assistant & Graduate Physician Assistant	- Not more than \$250
Annual License Renewal Fee	- Not more than \$150
Reinstatement Fee	- \$50 plus past renewal fees
Reinstatement Fee for Graduate Physician Assistant	- Not more than \$100
Inactive License Fee	- Not more than \$150
Annual Renewal of Inactive License Fee	- Not more than \$100
Inactive Conversion Fee	- Not more than \$150

(3-28-23)(    )

~~052~~**401.** -- 999. (RESERVED)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.03 – GENERAL PROVISIONS OF THE BOARD OF MEDICINE

### DOCKET NO. 24-3303-2401 (ZBR CHAPTER REPEAL)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-1806, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, 54-1841, 54-1867, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>24.33.03 – General Provisions of the Board of Medicine</b>
<b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<a href="#">Virtual Meeting Link</a>
<b>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</b>

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

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

This chapter of administrative rules is being repealed. All necessary provisions are being moved and combined into IDAPA 24.33.01, Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho, under companion docket 24-3301-2401 in this bulletin.

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

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

This rulemaking is not anticipated to have any negative impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, Vol. 24-4, p.41.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.



Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**IDAPA 24.33.03 IS BEING REPEALED IN ITS ENTIRETY**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.04 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

### DOCKET NO. 24-3304-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-5102, 54-5105, 54-5108, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>24.33.04 – Rules for the Licensure of Naturopathic Medical Doctors</b>
<b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4, Coolwater Room</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<b>Virtual Meeting Link</b>
<b>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</b>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3304-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.04 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections [s 54-5102](#), [54-5105\(2\)](#), and [54-5108](#) Idaho Code. ~~(3-28-23)( )~~

**001. SCOPE.**

These rules govern the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors in Idaho. (3-28-23)

~~002. 009.~~ **(RESERVED)**

~~010~~**002. DEFINITIONS.**

~~01. Council on Naturopathic Medical Education (CNME). The accrediting organization that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare naturopathic medical doctors. (3-28-23)~~

~~02. North American Board of Naturopathic Examiners (NABNE). The independent, nonprofit organization that qualifies applicants to take the Naturopathic Physicians Licensing Exam and submits those results to the regulatory authority. (3-28-23)~~

~~03. Naturopathic Physicians Licensing Exam (NPLEX). The board examination for naturopathic medical doctors. (3-28-23)~~

~~041. Naturopathic Medical Doctor. A person who meets the definition in Section 54-5101(5), Idaho Code. Is a term interchangeable with E licensed naturopathic physician, physician of naturopathic medicine, naturopathic medical doctor and NMD are interchangeable terms. (3-28-23)( )~~

~~05. Primary Care. Comprehensive first contact and/or continuing care for persons with any sign, symptom, or health concern not limited by problem of origin, organ system, or diagnosis. It includes health promotion, disease prevention, health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illness. It includes collaborating with other health professionals and utilizing consultation or referral as appropriate. (3-28-23)~~

~~04103. – 02099. (RESERVED)~~

~~021100. APPLICATION FOR LICENSURE.~~

~~01. Application Accrediting Organization. Each applicant for licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the nonrefundable application fee. The Council on Naturopathic Medical Education (CNME) is the accrediting organization that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare naturopathic medical doctors. (3-28-23)( )~~

~~02. Licensing Examinations. Each applicant must provide certification of passing the following four (4) sections of the Naturopathic Physicians Licensing Exam (NPLEX) exams administered by the North American Board of Naturopathic Examiners (NABNE): (3-28-23)( )~~

- ~~a. Part I Biomedical Science; (3-28-23)~~
- ~~b. Part II Core Clinical Science; (3-28-23)~~
- ~~c. Part II Clinical Elective Minor Surgery; and (3-28-23)~~
- ~~d. Part II Clinical Elective Pharmacology. (3-28-23)~~

~~03. Renewal of License. ( )~~

~~a. Continuing Medical Education (CME). Every two (2) years, a total of forty-eight (48) hours, twenty (20) of which is pharmacology, of Board approved verifiable CME is required. ( )~~

~~101. – 199. (RESERVED)~~

~~022. AUTHORITY TO PRESCRIBE, DISPENSE, ADMINISTER, AND ORDER. Naturopathic medical doctors are allowed to prescribe, dispense, administer, and order the following: (3-28-23)~~

~~01. Laboratory and Diagnostic Procedures. Naturopathic medical doctors licensed under this chapter may perform and order physical examinations, laboratory tests, imaging, and other diagnostic tests consistent with primary care. (3-28-23)~~

~~a. All examinations, laboratory, and imaging tests not consistent with primary care must be referred to an appropriately licensed health care professional for treatment and interpretation. (3-28-23)~~

~~b. Any test result or lesion suspicious of malignancy must be referred to the appropriate physician licensed pursuant to Chapter 18, Title 54 Idaho Code. (3-28-23)~~

~~200. PRACTICE STANDARDS.~~

~~021. Naturopathic Formulary. The formulary for naturopathic medical doctors licensed under this chapter consists of non-controlled legend medications (excluding testosterone) deemed appropriate for the primary~~

health care of patients within the scope of practice and training of each naturopathic medical doctor. Prescribing pursuant to the Naturopathic Formulary shall be according to the standard of health care provided by other qualified naturopathic medical doctors in the same community or similar communities, taking into account their training, experience and the degree of expertise to which they hold themselves out to the public. (3-28-23)

**032.** **Formulary Exclusions.** The naturopathic formulary does not include: (3-28-23)

**a.** Scheduled, controlled drugs, except for testosterone used in physiologic doses with regular lab assessment for hormone replacement therapy, gender dysphoria, or hypogonadism; (3-28-23)

**b.** General anesthetics; (3-28-23)

**c.** Blood derivatives except for platelet rich plasma; or (3-28-23)

**d.** Systemic antineoplastic agents, except for the following antineoplastic agents used orally or topically for non-cancer purposes: (3-28-23)

**i.** Fluorouracil (5FU); (3-28-23)

**ii.** Anastrozole; and (3-28-23)

**iii.** Letrozole. (3-28-23)

~~023~~**201.** – ~~034~~**299.**(RESERVED)

~~032.~~ **GROUNDS FOR DISCIPLINE OR DENIAL OF A LICENSE.**  
~~300.~~ **DISCIPLINE.**

~~01.~~ **Ethical Standards of Practice.** In addition to statutory grounds for discipline set forth in Section 54-5109, Idaho Code, ~~e~~Every person licensed as a naturopathic medical doctor is subject to discipline by the Board under the following grounds must adhere to the following standards: (3-28-23)(    )

~~01.~~ **Ability to Practice.** Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice naturopathic medicine or deemed unfit by the Board to practice naturopathic medicine; (3-28-23)

~~02a.~~ **Controlled Substance or Alcohol Abuse.** Abstain from ~~U~~Using any controlled substance or alcohol in a manner which has or may have a direct and adverse bearing on the licensee's ability to practice naturopathic medicine with reasonable skill and safety; (3-28-23)(    )

~~03.~~ **Education or Experience.** ~~Misrepresenting educational or experience attainments;~~ (3-28-23)

~~04b.~~ **Medical Records.** ~~Failing to m~~ Maintain adequate naturopathic medical records. Adequate naturopathic medical records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; (3-28-23)(    )

~~05.~~ **Untrained Practice.** ~~Practicing in an area of naturopathic medicine for which the licensee is not trained;~~ (3-28-23)

~~06.~~ **Sexual Misconduct.** ~~Committing any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of naturopathic medicine;~~ (3-28-23)

~~a.~~ **Consent of the patient shall not be a defense.** (3-28-23)

~~b.~~ **Subsection 032.06 does not apply to sexual contact between a naturopathic medical doctor and the naturopathic medical doctor's spouse or a person in a domestic relationship who is also a patient.** (3-28-23)

~~e.~~ **A former patient includes a patient for whom the naturopathic medical doctor has provided**

~~naturopathic medical services within the last twelve (12) months. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the naturopathic medical doctor uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient. (3-28-23)~~

~~07c. Failure to Report~~ ~~ing. Failing to r~~ **R**eport to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; (3-28-23)(    )

~~08d. Interfering with or Influencing~~ Disciplinary Outcomes. ~~May not Interfering~~ **interfere** with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or naturopathic medical board, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action; (3-28-23)(    )

~~09e. Failure to Obey Laws and Rules. Failing to o~~ **O**bey federal and local laws and rules governing the practice of naturopathic medicine. (3-28-23)(    )

**033. CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS.**

~~01. Renewal. Every two (2) years, a total of forty-eight (48) hours (twenty (20) of which is pharmacology) of Board approved CME is required as part of the naturopathic medical doctor's license renewal. (3-28-23)~~

~~02. Verification of Compliance. Licensees must, at license renewal, provide a signed statement to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as it deems necessary to verify compliance. (3-28-23)~~

~~034~~**301. – 040**~~399.~~(RESERVED)

~~041~~**400. FEES.**

~~Nonrefundable f~~ **F**ees are shown in the following table **as follows:**

Fees – Table (Non-Refundable)	
Licensure Fee	Not more than \$600
Annual License Renewal Fee	Not more than \$300
Reinstatement Fee	Not more than \$200
<del>Inactive License Renewal Fee</del>	<del>Not more than \$100</del>
Duplicate Wallet License Fee	Not more than \$20
Duplicate Wall Certificate Fee	Not more than \$50

(3-28-23)(    )

~~042~~**401. – 999. (RESERVED)**

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**  
**24.33.05 – RULES FOR THE LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO**  
**DOCKET NO. 24-3305-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-3902, 54-3906, 54-3907, 54-3910, 54-3911, 54-3913, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>24.33.05 – Rules for the Licensure of Athletic Trainers to Practice in Idaho</b>
<b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<b>Virtual Meeting Link</b>
<b>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</b>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

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

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3305-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.05 – RULES FOR THE LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections [54-3902](#), [54-3906](#), 54-3907, [54-3910](#), [54-3911](#) and 54-3913~~(2)~~, Idaho Code. ~~(3-28-23)( )~~

**001. SCOPE.**

These rules govern the practice of athletic training in Idaho. (3-28-23)

**002. -- ~~00999~~. (RESERVED)**

**100. LICENSURE.**

~~Provisional licenses for athletic trainers will be issued for a period of one (1) year and may not be renewed. ( )~~

**010. DEFINITIONS.**

~~**01. Actively Engaged.** A person who is employed in Idaho on a remuneration basis by an educational or health care institution, professional, amateur, or recreational sports club, or other bona fide athletic organization and is involved in athletic training as a responsibility of his employment. (3-28-23)~~

~~**02. Association.** The Idaho Athletic Trainers' Association. (3-28-23)~~

~~**03. Athletic Training Service Plan or Protocol.** A written document, made upon a form provided by~~



~~the Board, mutually agreed upon, signed and dated by the athletic trainer and directing physician that defines the athletic training services to be provided by the athletic trainer. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 39, Idaho Code, and to safeguard the public. The Board of Chiropractic Physicians may review those athletic training service plans or protocols or other documents that define the responsibilities of the athletic trainer for those athletic trainers whose directing physicians are chiropractic physicians. (3-28-23)~~

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**011. SCOPE OF PRACTICE.**

**01. Referral by Directing Physician.** An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization must be referred by a directing physician, but only after such directing physician has first evaluated the athlete. An athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization will especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. (3-28-23)

~~**02. Limitations of Scope of Practice.** The scope of practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. (3-28-23)~~

**032. Identification.** The athletic trainer will at all times when on duty identify himself as an athletic trainer. (3-28-23)

**012. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.**

**03. Athletic Training Service Plan or Protocol.** Each licensed athletic trainer providing athletic training services will create, ~~upon a form provided by the Board,~~ an athletic training service plan or protocol with his directing physician. This athletic training service plan or protocol must be a written document that defines the services to be provided by the athletic trainer, mutually agreed upon by both directing physician and athletic trainer and signed and dated by both. The service plan or protocol shall be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This The plan or protocol will not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol will be made immediately available to the Board upon request to allow review of the service plan or protocol, including job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with the law and to safeguard the public. This plan or protocol will be made immediately available to the Board of Chiropractic Physicians for the same purposes upon request for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol will include: (3-28-23)(\_\_\_\_)

**04a.** Listing of Services and Activities. A listing of the athletic training services to be provided and specific activities to be performed by the athletic trainer. (3-28-23)

**02b.** Locations and Facilities. The specific locations and facilities in which the athletic trainer will function; and (3-28-23)

**03c.** Methods to be Used. The methods to be used to ensure responsible direction and control of the activities of the athletic trainer, which will provide for the: (3-28-23)

**a.i.** Recording of an on-site visit by the directing physician at least semiannually or every semester; (3-28-23)

~~bii.~~ Availability of the directing physician to the athletic trainer in person or by telephone and procedures for providing direction for the athletic trainer in emergency situations; and (3-28-23)

~~eiii.~~ Procedures for addressing situations outside the scope of practice of the athletic trainer. (3-28-23)

~~013.—019. (RESERVED)~~

~~020. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.~~

~~Requirements for licensure and renewal are found in Title 54, Chapter 39, Idaho Code, IDAPA 24.33.03, and on Board approved forms. (3-28-23)~~

~~021.—029. (RESERVED)~~

~~030. APPLICATION FOR LICENSURE.~~

~~01. Application for Provisional Licensure. (3-28-23)~~

~~a. The Board, based upon the recommendation of the Board of Athletic Trainers, may issue provisional licensure to applicants who have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 020 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. (3-28-23)~~

~~b. Each applicant for provisional licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and include an affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed athletic trainer. (3-28-23)~~

~~#04. Supervision and Scope of Provisional Licenses. A provisionally licensed graduate athletic trainer must be in direct association with his directing physician and Idaho licensed athletic trainer who will supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer is are responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed athletic trainer is determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered. (3-28-23)~~

~~e. Scope of Practice. The scope of practice of the provisionally licensed athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, is limited to and consistent with the scope of practice of his directing physician and supervising athletic trainer and must conform with the established athletic training service plan or protocol. (3-28-23)( )~~

~~d. Expiration of Provisional License. All provisional licenses for athletic trainers will expire upon meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 020 of these rules, including passing the certification examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. (3-28-23)~~

~~031.—051. (RESERVED)~~

~~052. DENIAL OR REFUSAL TO RENEW LICENSURE OR SUSPENSION OR REVOCATION OF LICENSURE.~~

~~01. Application or Renewal Denial.~~ A new or renewal application for licensure may be denied by the Board and shall be considered a contested case. Every person licensed pursuant to Title 54, Chapter 39, Idaho Code and these rules is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-3911, Idaho Code, and the Idaho Administrative Procedure Act. (3-28-23)

~~02. Petitions for Reconsideration of Denial.~~ All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. (3-28-23)

~~053~~201. -- ~~060~~399.(RESERVED)

~~061~~400. FEES ~~TABLE.~~  
Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Athletic Trainer Licensure Fee	- Not more than \$240
Athletic Trainer Annual Renewal Fee	- Not more than \$160
Directing Physician Registration Fee	- Not more than \$50
Annual Renewal of Directing Physician Registration Fee	- Not more than \$25
Alternate Directing Physician Registration/Renewal Fee	- \$0
Provisional Licensure Fee	- Not more than \$80
Annual Renewal of Provisional License Fee	- Not more than \$40
Inactive License Renewal Fee	- Not more than \$80
Reinstatement Fee	- Not more than \$50 plus unpaid renewal fees

(3-28-23)( )

~~062~~401. -- 999. (RESERVED)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.06 – RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO

DOCKET NO. 24-3306-2401 (ZBR CHAPTER REWRITE)

### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-4305, 54-4306, 54-4309, 54-4310, 54-4311, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<p style="text-align: center;"><b>24.33.06 – Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho</b></p>
<p style="text-align: center;"><b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Coolwater Room, Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b></p> <p style="text-align: center;"><a href="#">Virtual Meeting Link</a></p> <p>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</p>

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3306-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.06 – RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND**  
**PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

**000. LEGAL AUTHORITY.**

The se rules are promulgated pursuant to Sections 54-4305, 54-4306, 54-4309, 54-4310, and 54-4311, Idaho Code.

~~(3-28-23)~~( )

**001. SCOPE.**

The se rules govern the practice of respiratory care and polysomnography related to respiratory care. ~~(3-28-23)~~( )

~~002.—009.~~ **(RESERVED)**

**010. DEFINITIONS.**

~~01. Board of Registered Polysomnographic Technologists. A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession.~~ (3-28-23)

~~02. Comprehensive Registry Exam. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT).~~ (3-28-23)

~~03. Written Registry and Clinical Simulation Examinations. The certification examinations~~

~~administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (3-28-23)~~

~~0402. -- 03099. (RESERVED)~~

~~031. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.~~

~~Requirements for licensure and renewal are found in Title 54, Chapter 43, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. (3-28-23)~~

~~100. LICENSURE.~~

~~01. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. (3-28-23)~~

~~a. The Board may issue a dual license/permit to perform respiratory care and polysomnography related respiratory care to an applicant who meets the requirements set forth in this chapter and Sections 54-4308 and 54-4307(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-28-23)( )~~

~~b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-28-23)~~

~~c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-28-23)~~

~~02. Comprehensive Registry Exam. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). ( )~~

~~03. Provisional Licensure or Permit by Examination. A provisional license or permit may be issued to an applicant following graduation from an accredited or approved respiratory care or polysomnography-related respiratory care educational program and the applicant has either applied to take or has taken the requisite Board-approved national examination(s) and is awaiting results. An applicant who fails to pass the requisite Board-approved national examination(s) during the six (6) month timeframe is not eligible for further temporary licensure or permitting. Provisional licenses and permits issued to examination candidates are issued for a period not to exceed six (6) months and are nonrenewable. ( )~~

~~032. CONTINUING EDUCATION.~~

~~01. Evidence of Completion. Prior to renewal, reinstatement or reapplication, each applicant shall submit evidence of successfully completing no less than twelve (12) hours per year of approved respiratory therapy related continuing education. Continuing education activities include but are not limited to: attending or presenting at conferences, seminars or inservice programs; or formal course work in respiratory therapy related subjects. (3-28-23)~~

~~02. Polysomnographer Continuing Education. Prior to renewal, reinstatement or reapplication, each applicant shall submit evidence of successfully completing no less than twelve (12) hours per year of approved polysomnographic related respiratory care continuing education. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Subsection 032.02 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. (3-28-23)~~

~~033. PROVISIONAL LICENSE OR PERMIT.~~

~~01. Provisional Licensure or Permit by Examination. A provisional license or permit may be issued until notification of exam results to an applicant following graduation from an accredited or approved respiratory care~~

~~or polysomnography related respiratory care educational program as set forth in Sections 54-4303, 54-4306, 54-4307, 54-4308, 54-4309, Idaho Code, if: the applicant otherwise meets the license or permit requirements set forth in Sections 54-4307(2) & (4) or 54-4308, Idaho Code; and the applicant has either applied to take or has taken the requisite Board approved national examination(s) and is awaiting results. Provisional licenses and permits issued to examination candidates are issued for a period not to exceed six (6) months and are nonrenewable. (3-28-23)~~

~~**02. Unsuccessful Examination Candidates.** An applicant who fails to pass the requisite Board approved national examination(s) during the six (6) month timeframe is not eligible for further temporary licensure or permitting. (3-28-23)~~

~~**04. Continuing Education.** Licensees are responsible for choosing respiratory therapy related continuing education programs that focus on protecting the health and safety of the public. ( )~~

~~**101. -- 199. (RESERVED)**~~

~~**200. PRACTICE STANDARDS.**~~

~~**03401. Supervision Of Respiratory Care.** The practice or provision of respiratory care or polysomnography services by persons holding a student, consulting, or training exemption or a provisional license or permit shall be under the supervision of a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the person being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the person being supervised shall be determined by the competency of the person, the treatment setting, and the diagnostic category of the client. (3-28-23)( )~~

~~**035201. -- 045399.(RESERVED)**~~

~~**046400. FEES—TABLE.**~~

~~**01. Fees—Table.** Nonrefundable fees for Respiratory Care Practitioners are as follows:~~

Fees – Table (Non-Refundable)	
<del>Respiratory Care Practitioner</del> Initial Licensure Fee	- Not more than \$180
<del>Respiratory Care Practitioner</del> Reinstatement Fee	- \$50 plus unpaid renewal fees
<del>Annual Renewal Fee for Inactive License</del>	- <del>Not more than \$100</del>
<del>Inactive Conversion Fee</del>	- <del>Not more than \$100</del>
Annual Renewal Fee	- Not more than \$140
Provisional License Fee	- Not more than \$90
<del>Dual Licensure/Permit Fee</del>	- <del>Not more than \$180</del>
<del>A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.</del>	

~~(3-28-23)( )~~

~~**02. Fees—Table.** Nonrefundable Permit Fees for Polysomnography Related Respiratory Care Practitioners.~~

<b>Fees—Table (Non-Refundable)</b>	
Initial Permit Fee—Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$180
Reinstatement Fee—Registered Polysomnographic Technologist and Polysomnographic Technician	- \$50 plus unpaid renewal fees
Annual Renewal Fee—Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$140
Provisional Permit Fee—Registered Polysomnographic Technologist	- Not more than \$90
Annual Renewal Fee for Inactive License—Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100 plus unpaid active licensure fees for the time inactive

(3-28-23)

~~03. Fees—Table. Nonrefundable Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care.~~ (3-28-23)

~~a. Initial Licensure/Permit Fee. A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.~~

<b>Fees—Table (Non-Refundable)</b>	
Dual Licensure/Permit Fee	- Not more than \$180
A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.	
Reinstatement Fee	- \$50 plus unpaid renewal fees
Annual Renewal Fee	- Not more than \$140
Renewal is required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially were not obtained at the same time.	

(3-28-23)

~~047401. -- 999. (RESERVED)~~



# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.33.07 – RULES FOR THE LICENSURE OF DIETITIANS

### DOCKET NO. 24-3307-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 6-1002, 54-3505, 54-3509, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<b>24.33.07 – Rules for the Licensure of Dietitians</b>
<b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>
<b>Virtual Meeting Link</b>
Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a> .

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

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

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Medicine is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

N/A. The proposed amendments to the rules do not impose any new or increased fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

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

N/A. No materials have been incorporated by reference into the proposed rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED the 7th day of June, 2024.

Krissy Veseth  
Bureau Chief  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3307-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.07 – RULES FOR THE LICENSURE OF DIETITIANS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-3505(2) and 54-3509, Idaho Code. (3-28-23)( )

**001. SCOPE.**

These rules govern the practice of dietetics in Idaho. (3-28-23)

**002. -- ~~0199~~. (RESERVED)**

**100. LICENSURE.**

**~~020. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.~~**

~~Requirements for licensure and renewal are found in Title 54, Chapter 35, Idaho Code, IDAPA 24.33.03, and on Board approved forms. (3-28-23)~~

**~~021. PROVISIONAL LICENSURE.~~**

**01. Provisional License.** The Board may issue a provisional license to a person who ~~has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who~~ has met all the other requirements set forth by Section 020 of this rule in Title 54, Chapter 35, Idaho Code but who has not yet passed the examination conducted by

the Commission on Dietetic Registration. (3-28-23)

**02. Provisional License Dietitian/Monitor Affidavit.** The provisionally licensed dietitian must obtain an affidavit signed by an Idaho licensed dietitian affirming and attesting that they will be responsible for the activities of the provisionally licensed dietitian and will review and countersign all patient documentation signed by the provisionally licensed dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed dietitian will be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. (3-28-23)

**03. Provisional Licensure Expiration.** Provisional licenses will become full active licenses upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses will expire on the last day of the current renewal cycle one (1) year after issuance. The Board may grant an extension for one (1) additional year upon request. The provisionally licensed dietitian must obtain an affidavit signed by an Idaho licensed dietitian affirming and attesting that they will be responsible for the activities of the provisionally licensed dietitian and will review and countersign all patient documentation signed by the provisionally licensed dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed dietitian will be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. (3-28-23)( )

~~022. — 031.~~ (RESERVED)

~~032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.~~

~~01. Disciplinary Authority.~~ A new or renewal application may be denied or a license may be suspended or revoked by the Board, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to disciplinary actions or probationary conditions pursuant to the procedures and powers established by and set forth in Section 54-3505, Idaho Code, and the Idaho Administrative Procedure Act. (3-28-23)

~~033-102. -- 040-399.~~(RESERVED)

~~041-400. FEES — TABLE.~~  
Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Initial Licensure Fee	- Not more than \$150
Annual Renewal Fee	- Not more than \$100
Reinstatement Fee	- \$50 plus unpaid renewal fees
Inactive Conversion Fee	- Not more than \$50

(3-28-23)( )

~~042-401. -- 999.~~ (RESERVED)

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

**24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD**

**DOCKET NO. 24-3910-2402**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 54, Chapter 10, Idaho Code and 54-1006, Idaho Code.

**MEETING SCHEDULE:** Public hearings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website: <https://dopl.idaho.gov/calendar/> and [townhall.idaho.gov](https://townhall.idaho.gov).

<b>24.39.10 – Rules of the Idaho Electrical Board</b>
<b>Thursday, July 11, 2024 – 4:30 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4, Thunderbolt Room</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b>

<b>24.39.10 – Rules of the Idaho Electrical Board</b>
<b>Monday, July 29, 2024 – 3:30 p.m. (MT)</b> <b>Idaho Department of Labor</b> <b>Scout Mountain Room</b> <b>430 N. 5th Ave.</b> <b>Pocatello, ID 83201</b>

<b>24.39.10 – Rules of the Idaho Electrical Board</b>
<b>Tuesday, July 30, 2024 – 4:00 p.m. (MT)</b> <b>Rexburg City Hall</b> <b>Council Chambers</b> <b>35 1st St. E.</b> <b>Rexburg, ID 83440</b>

**24.39.10 – Rules of the Idaho Electrical Board**

**Wednesday, July 31, 2024 – 3:00 p.m. (MT)**  
**College of Southern Idaho**  
**Taylor Bldg. Conference Rm. #248**  
**315 Falls Ave.**  
**Twin Falls, ID 83301**

**24.39.10 – Rules of the Idaho Electrical Board**

**Wednesday, August 14, 2024 – 5:00 p.m. (PT)**  
**Moscow City Hall**  
**Council Chambers**  
**206 E. 3<sup>rd</sup> St.**  
**Moscow, ID 83843**

**24.39.10 – Rules of the Idaho Electrical Board**

**Friday, August 16, 2024 – 4:30 p.m. (PT)**  
**Idaho Department of Labor**  
**600 N. Thornton St.**  
**Post Falls, ID 83854**

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Idaho Electrical Board's administrative rules were not approved by concurrent resolution during the 2024 legislative session, as required by Idaho Code Section 67-5291. As a result, the board adopted temporary rules, which will expire sine die unless approved by concurrent resolution. In order to ensure continuity of rules and to promote public health and safety, the board intends to engage in negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 30, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief, Bureau of Administration  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

## **IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

### **24.39.40 – SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS**

**DOCKET NO. 24-3940-2401 (ZBR CHAPTER REWRITE)**

#### **NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 39, Chapter 86, Idaho Code and 39-8605, Idaho Code.

**MEETING SCHEDULE:** Two public hearings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website: <https://dopl.idaho.gov/calendar/> and [townhall.idaho.gov](https://townhall.idaho.gov).

#### **24.39.40 – Safety Rules for Elevators, Escalators, and Moving Walks**

**Thursday, July 11, 2024 – 9:00 a.m. (MT)**  
**Division of Occupational and Professional Licenses**  
**Chinden Campus Building 4, Eagle Rock Room**  
**11341 W. Chinden Blvd.**  
**Boise, ID 83714**

[Virtual Meeting Link](#)

#### **24.39.40 – Safety Rules for Elevators, Escalators, and Moving Walks**

**Monday, August 19, 2024 – 1:00 p.m. (MT)**  
**Division of Occupational and Professional Licenses**  
**Chinden Campus Building 4, Eagle Rock Room**  
**11341 W. Chinden Blvd.**  
**Boise, ID 83714**

[Virtual Meeting Link](#)

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The negotiated rulemaking is being presented as part of the DOPL plan to review each rule chapter every 5 years. There are no specific rulemaking changes planned by DOPL at this time except for evaluation and amendment consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. DOPL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief, Bureau of Administration  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)



# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.39.60 – RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

### DOCKET NO. 24-3960-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF INTENT TO PROMULGATE RULES – ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-2604, 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as Title 39, Chapter 80, Idaho Code, and Section 39-8007, Idaho Code.

**MEETING SCHEDULE:** Public hearings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website: <https://dopl.idaho.gov/calendar/> and [townhall.idaho.gov](https://townhall.idaho.gov).

#### 24.39.60 – Rules Governing Uniform School Building Safety

**Friday, July 26, 2024 – 9:00 a.m. (MT)**  
**Division of Occupational and Professional Licenses**  
**Chinden Campus Building 4, Eagle Rock Room**  
**11341 W. Chinden Blvd.,**  
**Boise, ID 83714**

[Virtual Meeting Link](#)

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The negotiated rulemaking is being presented as part of the DOPL plan to review each rule chapter every 5 years. There are no specific rulemaking changes planned by DOPL at this time except for evaluation and amendment consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. DOPL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2024.

DATED the 7th day of June, 2024.

Krissy Veseth  
Bureau Chief, Bureau of Administration  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

**24.39.80 – IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING**

**DOCKET NO. 24-3980-2401 (ZBR CHAPTER REWRITE)**

**NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, as well as 67-2601(a)(3), Idaho Code.

**MEETING SCHEDULE:** Public hearings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website: <https://dopl.idaho.gov/calendar/> and [townhall.idaho.gov](http://townhall.idaho.gov).

<b>24.39.80 – Idaho Minimum Safety Standards and Practices for Logging</b>
<b>Wednesday, July 17, 2024 – 3:30 p.m. (MT) New Meadows Public Library 400 Virginia St. New Meadows, ID 83654</b>

<b>24.39.80 – Idaho Minimum Safety Standards and Practices for Logging</b>
<b>Wednesday, August 14, 2024 – 3:30 p.m. (PT) Moscow City Hall, Council Chambers 206 E. 3rd St. Moscow, ID 83843</b>

<b>24.39.80 – Idaho Minimum Safety Standards and Practices for Logging</b>
<b>Thursday, August 15, 2024 – 3:30 p.m. (MT) Idaho Department of Labor 600 N. Thornton St. Post Falls, ID 83854</b>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The negotiated rulemaking is being presented as part of the DOPL plan to review each rule chapter every 5 years. There are no specific rulemaking changes planned by DOPL at this time except for evaluation and amendment consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. DOPL intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 30, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth  
Bureau Chief, Bureau of Administration  
11341 W. Chinden Blvd., Bldg. #4  
Boise, ID 83714  
Phone: (208) 577-2491  
Email: [krissy.veseth@dopl.idaho.gov](mailto:krissy.veseth@dopl.idaho.gov)

**IDAPA 35 – IDAHO STATE TAX COMMISSION**

**35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-2401**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105, Idaho Code.

**MEETING SCHEDULE:** Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/governance/rules/rules-property-tax-rules-committee/>.

**Tuesday, July 30, 2024 at 1:30 p.m. (MT)**

**In Person:**

**Idaho State Tax Commission  
11321 W Chinden Blvd., Bldg. 2  
Boise, ID 83714**

**(Meeting to be held in the Coral Conference Room)**

**Teleconference via WebEx:**

**Join from the meeting link: <https://idahogov.webex.com/idahogov/j.php?MTID=maa06e28fbaad7e9e5d6a6daea86309ce>**

**Join by meeting number:**

**meeting number (access code): 2632 000 9426  
meeting password: 5NniYpVjv39**

**Join by phone:**

**+1-415-655-0001 US Toll**

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

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

1. Attend the negotiated rulemaking meeting in person or through teleconference, and participate in the negotiation process,
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Property Tax Administrative Rule 617 addresses the income capitalization approach used for Animal Units per Month (AUM) for grazing land assessments in Idaho. The rule provides the formula used by county assessors to properly value specific types of Agricultural land. The statute, Section 63-602K, Idaho Code, doesn't specify the formula and corrected calculation instruction is needed.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Alan Dornfest using the contact information below. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission web site at the following web address: <https://tax.idaho.gov/governance/rules/rules-property-tax-rules-committee/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 7, 2024.

DATED this 3rd day of July, 2024.

Alan Dornfest, Property Tax Policy Bureau Chief  
Idaho State Tax Commission  
11321 W. Chinden Blvd., Boise ID 83714  
PO Box 36. Boise ID 83722-0036  
[Alan.Dornfest@tax.idaho.gov](mailto:Alan.Dornfest@tax.idaho.gov)  
(208) 334-7742

**IDAPA 35 – IDAHO STATE TAX COMMISSION**

**35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES**

**DOCKET NO. 35-0201-2401**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 63-105, Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Wednesday, July 31, 2024 at 11:00 a.m. (MT)</b>
<b>In Person:</b> <b>Idaho State Tax Commission</b> <b>11321 W Chinden Blvd., Bldg. 2</b> <b>Boise, ID 83714</b> <b>(Meeting to be held in the Coral Conference Room)</b>
<b>Teleconference via WebEx:</b> <b>Join from the meeting link: <a href="https://idahogov.webex.com/idahogov/j.php?MTID=m2efbb5f1de77d1c4c031ba14284e711a">https://idahogov.webex.com/idahogov/j.php?MTID=m2efbb5f1de77d1c4c031ba14284e711a</a></b>
<b>Join by meeting number:</b> <b>meeting number (access code): 2633 180 8706</b> <b>meeting password: nFPZB25RAd3</b>
<b>Join by phone:</b> <b>+1-415-655-0001 US Toll</b>

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

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

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process,
2. Provide oral or written recommendations, or both, at a negotiated rulemaking meeting,
3. Submit written comments to the address or email below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking is being done to effectuate the intent of a new statute (2024 HB445). The rule will address that halting the return interest is only for returns that are timely filed and filed in good faith.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Aaron Yost, (208) 334-7533. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the State Tax Commission website at the following web address: <https://tax.idaho.gov/governance/rules/rules-income-tax-rules-committee/>. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 7, 2024.

DATED this 3rd day of July, 2024.

Aaron Yost, Government Affairs Program Manager  
Idaho State Tax Commission  
11321 W. Chinden Blvd., Boise ID 83714  
PO Box 36. Boise ID 83722-0036  
[Aaron.Yost@tax.idaho.gov](mailto:Aaron.Yost@tax.idaho.gov)  
(208) 334-7533



**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**

**39.03.41, 39.03.60, 39.03.65  
TRAFFIC CONTROL DEVICES; OUTDOOR ADVERTISING, ACCIDENT MEMORIALS,  
AND OTHER OFFICIAL SIGNS; AND TRAFFIC MINUTE ENTRIES**

**DOCKET NO. 39-ZBRR-2402 (ZBR CHAPTER REWRITES)**

**OMNIBUS NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections, 40-312(1), 40-313(1), 49-201(3), and 49-202 Idaho Code.

**MEETING SCHEDULE:** A negotiated rulemaking meeting will be held as follows:

<b>Tuesday, July 16, 2024 1:00 p.m. to 3:00 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>ITD Headquarters 11331 W Chinden Blvd., Boise, ID 83714 - Building 8 Broadway Conference Room</b>
<i>Participation via phone or Microsoft Teams is also available:</i> <b><a href="#">Join the meeting now</a> Meeting ID: 285 032 882 99 Passcode: 2z8kA2</b>
<i>Dial-in by phone</i> <b>+1 208-473-7075,,639297869# United States, Boise <a href="#">Find a local number</a> Phone conference ID: 639 297 869#</b>
<i>Join on a video conferencing device</i> <b>Tenant key: itdgov@m.webex.com Video ID: 112 315 758 9 <a href="#">More info</a></b>

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

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

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The July negotiated rulemaking meeting will invite discussion on two Department Zero-Based Regulation (ZBR) rule chapters and one standalone rule chapter to be reviewed by the Idaho Transportation Department. In support of the Governor's Red Tape Reduction initiative and in accordance with the [Zero-Based Regulation E. O. 2020-01](#) and the Department's 5-year review schedule, the goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions and provide clarity to the respective chapters. For Chapter 39.03.41, Rules Governing Traffic Control Devices, the department is seeking to achieve federal compliance with the Manual on Uniform Traffic Devices (MUTCD) by documenting the provisions in the manual that are not applicable in the state of Idaho.

The following IDAPA rule chapters are germane to this negotiated rulemaking notice:

- 39.03.41 – *Rules Governing Traffic Control Devices*;
- 39.03.60 – *Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs*; and
- 39.03.65 – *Rules Governing Traffic Minute Entries*.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact please contact Brendan Floyd, Policy Specialist, at 208-334-8474. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, August 16, 2024.

DATED this 3rd Day of July, 2024.

Brendan Floyd  
Office of Governmental Affairs  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
Phone: 208-334-8810  
[brendan.floyd@itd.idaho.gov](mailto:brendan.floyd@itd.idaho.gov)

**IDAPA 44 – OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR,  
DIVISION OF FINANCIAL MANAGEMENT**

**DOCKET NO. 44-0000-2400**

**NOTICE OF OMNIBUS RULEMAKING – REVOCATION OF FINAL RULE**

**EFFECTIVE DATE:** The effective date of this action is July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5201(2), 67-5202(2), 67-5204(2)(b), and 67-5206(3), Idaho Code, notice is hereby given that the Office of Administrative Rules Coordinator has taken action to revise Idaho's Administrative Code to remove certain final rules that are no longer in full force and effect.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for publishing this notice:

Idaho's Administrative Procedures Act stipulates that the administrative code may contain only, in relevant part, all "final rules." When the Legislature created the Office of Administrative Hearings (OAH), it did so with the intent of creating a non-biased decision maker to facilitate due process for Idahoans. In carrying out that process, the Legislature also intended that all state agencies and their contested cases, with limited exceptions, operate under one set of contested case rules. To that end, Section 67-5206(3), Idaho Code, states that any contested case rules promulgated by either the attorney general's office or an agency shall "remain in full force and effect ... until such time as [OAH] promulgates replacement rules." [IDAPA 62.01.01, Idaho Rules of Administrative Procedure](#), (OAH's contested case rules) went into effect on July 1, 2024. Accordingly, the Division of Financial Management and Office of the Administrative Rules Coordinator has taken action to remove certain rules from the administrative code that are no longer final rules because they are no longer in full force and effect.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the legislative intent of [House Bill 629 \(2022\)](#) to provide for the independence and impartiality of hearing officers in the Administrative Hearing Act contested case proceedings by removing the affected chapters and subsections of rules of the agencies listed below.

Notwithstanding the provisions of Title 67, Chapter 52, Idaho Code, and further complying with the legislative intent of House Bill 629 (2022), recodification of the Idaho Administrative Code will reflect the actions in this notice.

This rulemaking notice is germane to and affects the following rule chapters and enumerated subsections:

- *04.11.01 – Idaho Rules of Administrative Procedure of the Attorney General* – entire chapter null and void;
- *11.04.01 – Rules Governing the Idaho State Racing Commission* – Subsections 131.02, a., and b. (in part), Sections 141, 143, Subsection 145.02, Sections 146, 150-153, 163, 168, 172, 173, 176-182, and Subsections 186.01 and 02, only, null and void;
- *16.05.03 – Contested Case Proceedings and Declaratory Rulings* – entire chapter null and void;
- *20.01.01 – Rules of Practice and Procedure Before the State Board of Land Commissioners* – entire chapter null and void;
- *21.01.01 – Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure* – Subsection 982.01, Sections 983, 984, and 985 (with the exception of Subsection 985.03, now codified as Subsection 982.04), only, null and void;
- *38.05.01 – Rules of the Division of Purchasing* – Subchapter C – Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing, Sections 200, 201, 208, and 209, only, null and void;
- *39.02.04 – Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees* – entire chapter null and void;
- *39.02.72 – Rules Governing Administrative License Suspensions* – entire chapter null and void;
- *52.01.03 – Rules Governing Operations of the Idaho State Lottery* – Section 704, only, null and void; and
- *59.01.01 – Rules for the Public Employee Retirement System of Idaho (PERSI)* – Subchapter A – PERSI Rules of Administrative Procedure, Section 011, only, null and void.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the revocation of this final rule, contact Josh Scholer at 208-854-3097.

DATED this 1st day of July, 2024.

Brad Hunt  
Administrative Rules Coordinator  
Office of the Administrative Rules Coordinator  
Division of Financial Management  
P.O. Box 83720, Boise, ID 83720-0032  
Phone: (208) 854-3096  
[adminrules@dfm.idaho.gov](mailto:adminrules@dfm.idaho.gov)

# **IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

## **58.01.23 – CONTESTED CASE RULES AND RULES FOR PROTECTION AND DISCLOSURE OF RECORDS**

**DOCKET NO. 58-0123-2401**

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

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2024.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 74-114(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 17, 2024. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** This rulemaking updates IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records (DEQ rules), for consistency with IDAPA 62.01.01, Idaho Rules of Administrative Procedure, recently adopted by the Office of Administrative Hearings (OAH rules) pursuant to Idaho Code § 67-5280. The OAH rules were adopted as pending rules and submitted to the 2024 Idaho State Legislature for review and approved with an effective date of July 1, 2024.

Pursuant to Idaho Code § 67-5206(3), IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General (Attorney General rules), are no longer in full force and effect as of July 1, 2024, due to the promulgation of the OAH rules. The DEQ rules refer to the Attorney General rules and contain procedures that are now covered by OAH; therefore, it is necessary to update the DEQ rules. At its June 2024 Board meeting, the Idaho Board of Environmental Quality (Board) adopted temporary rules that are consistent with the OAH rules.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If a pending rule is adopted by the Board and approved by concurrent resolution of the 2025 Idaho State Legislature, the final rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary for compliance with the deadline in amendments to governing law. IDAPA 62.01.01, Idaho Rules of Administrative Procedure (OAH rules), were adopted pursuant to Idaho Code § 67-5280 with an effective date of July 1, 2024. Temporary adoption of this rule docket ensures that the DEQ administrative procedural rules remain consistent with Idaho law.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking. This rulemaking updates the DEQ rules for consistency with the OAH rules.

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

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule regulates an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho. Section 39-107, Idaho Code, grants authority to the Board to adopt rules that are necessary to carry out the purposes of the Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact the undersigned. The web page for this docket is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/contested-cases-docket-no-58-0123-2401/>.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before July 24, 2024. Submit written comments to the undersigned.

Dated this 3rd day of July, 2024.

Janeena White  
Senior Operations Analyst  
Department of Environmental Quality  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 58-0123-2401**

**58.01.23 – CONTESTED CASE RULES AND  
RULES FOR PROTECTION AND DISCLOSURE OF RECORDS**

**000. LEGAL AUTHORITY.**

~~Under Sections 39-105, 39-107, 67-5206, and 74-114(8), Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules.~~ (3-31-22)(7-1-24)T

**001. ~~TITLE AND SCOPE AND APPLICABILITY.~~**

~~01. Title. These rules are titled IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.”~~ (3-31-22)

~~02. Scope. These rules establish general standards for contested case proceedings and procedures to safeguard trade secrets.~~ (3-31-22)

**002. ~~RULES FOR CONTESTED CASES.~~**

~~01. Purpose. The purpose of Sections 002 through 730 is to provide procedures for contested cases as required under Idaho Code § 39-107.~~ (3-31-22)

~~02. Applicability. Any person aggrieved by an action or inaction of the Department may file a petition to initiate a contested case pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such and outline substantive, non-procedural requirements prior to and during any contested case proceedings, except that Idaho Pollutant Discharge Elimination System permit decisions are governed by IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” Section 204.~~ (3-31-22)(7-1-24)T

**002. INFORMATION FOR FILING PETITION TO INITIATE CONTESTED CASE.**

Hearing coordinator contact and information for filing a petition to initiate a contested case is available at: <http://>

[deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/](http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/). (7-1-24)T

**003. IDAHO RULES OF ADMINISTRATIVE PROCEDURE ~~OF THE ATTORNEY GENERAL.~~**

For purposes of contested case procedures, other than specifically provided for in these rules, refer to ~~IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,”~~ which include, but are not limited to, the following sections: [IDAPA 62.01.01, Idaho Rules of Administrative Procedure.](#) (3-31-22)(7-1-24)T

01. ~~Liberal Construction.~~ Section 052; (3-31-22)
02. ~~Computation of Time.~~ Section 056; (3-31-22)
03. ~~Substitution, Withdrawal of Representative.~~ Section 205; (3-31-22)
04. ~~Defective, Insufficient or Late Pleadings.~~ Section 304; (3-31-22)
05. ~~Amendment, Withdrawal—Pleadings.~~ Section 305; (3-31-22)
06. ~~Intervention.~~ Sections 350, 351 and 354; (3-31-22)
07. ~~Disqualification of Hearing Officers.~~ Section 412; (3-31-22)
08. ~~Scope of Authority of Hearing Officers.~~ Section 413; (3-31-22)
09. ~~Ex Parte Communications.~~ Section 417; (3-31-22)
10. ~~Prehearing Conference.~~ Sections 510—514; (3-31-22)
11. ~~Discovery Related Prehearing Procedures.~~ Sections 520—532; (3-31-22)
12. ~~Hearings.~~ Sections 550—566; (3-31-22)
13. ~~Evidence.~~ Sections 600—606; (3-31-22)
14. ~~Settlements.~~ Sections 610—614; (3-31-22)
15. ~~Record of Decision.~~ Sections 650—651; (3-31-22)
16. ~~Defaults.~~ Sections 700—702; (3-31-22)
17. ~~Interlocutory Orders.~~ Sections 710—711; (3-31-22)
18. ~~Final Orders.~~ Section 740; (3-31-22)
19. ~~Orders Not Designated.~~ Section 750; (3-31-22)
20. ~~Modification of Orders.~~ Section 760; (3-31-22)
21. ~~Clarification of Orders.~~ Section 770; and (3-31-22)
22. ~~Stay of Orders.~~ Section 780. (3-31-22)

**004. (RESERVED)**

**005. DEFINITIONS.**

The terms “board,” “department,” and “director” have the meaning provided for those terms in [Section 39-103, Idaho Code](#). The terms “contested case,” “order,” “party,” and “person” have the meaning provided for those terms in

Section 67-5201, Idaho Code. (3-31-22)

**01. Aggrieved Person or Person Aggrieved.** Any person or entity with legal standing to challenge an action or inaction of the Department, including but not limited to permit holders and applicants for permits challenging Department permitting actions. (3-31-22)

**02. Petition.** The pleading initiating a contested case. (3-31-22)

~~**03. Pleadings.** Documents filed in a contested case. (3-31-22)~~

~~**04. Presiding Officer(s).** One (1) member of the board or a duly appointed hearing officer. (3-31-22)~~

~~006. -- 00741. (RESERVED)~~

~~**008. FILING AND SERVICE OF DOCUMENTS.**~~

~~**01. Filing of Documents.** (3-31-22)~~

~~**a.** All documents must be filed with the hearing coordinator and may be filed by email, U.S. mail, hand delivery, or fax. The hearing coordinator assigns case docket numbers, maintains case records, and issues notices on behalf of the Board. Information for filing documents is available at <http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~**b.** Upon receipt of a petition initiating a contested case, the hearing coordinator will: (3-31-22)~~

~~**i.** Provide confirmation of filing date to the originating party; (3-31-22)~~

~~**ii.** Serve the petition upon the Department; and (3-31-22)~~

~~**iii.** In any proceeding involving a permit, serve upon the permit applicant or permit holder the petition and a notice informing the permit applicant or permit holder that they have twenty-one (21) days after the date of service of the petition to intervene in the proceeding and that they may be bound by any decision rendered in the proceeding. (3-31-22)~~

~~**02. Service of Documents.** From the time a party files its petition, that party and all other parties must serve all future documents intended to be part of the agency record upon all other parties or representatives designated pursuant to Section 040 of these rules unless otherwise directed by order or notice or by the presiding officer. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The parties will serve courtesy copies upon the presiding officer. (3-31-22)~~

~~009.—019. (RESERVED)~~

~~**020. FORM OF PLEADINGS.**~~

~~A pleading template for documents to be filed in a contested case is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~**021. PROOF OF SERVICE.**~~

~~Every document meeting the conditions for service set out in Subsection 008.02 of these rules must be accompanied by proof of service. A certificate of service template is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~022.—039. (RESERVED)~~

~~**040. INITIAL PLEADING BY PARTY—LISTING OF REPRESENTATIVES.**~~

~~The initial pleading of each party must name the party's representative(s) for service and state the representative's(s)' address(es) for purposes of receipt of all official documents. No more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative(s) is valid service~~



~~upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. If an initial pleading is signed by more than one (1) person without identifying the representative(s) for service of documents, the presiding officer may select the person(s) upon whom documents are to be served. If two (2) or more parties or persons file identical or substantially like initial pleadings, the presiding officer may limit the number of parties or persons to be served with official documents in order to expedite the proceeding and reasonably manage the burden of service upon the parties.~~

~~(3-31-22)~~

~~**041. REPRESENTATION OF PARTIES.**~~

~~The representatives of the parties, and no other persons, are entitled to examine witnesses at a hearing or to make or argue motions. Unless otherwise authorized by law:~~

~~(3-31-22)~~

~~**01. Natural Person.** A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate;~~

~~(3-31-22)~~

~~**02. General Partnership.** A general partnership may be represented by a partner or an attorney; and~~

~~(3-31-22)~~

~~**03. Represented by Attorney.** The following must be represented by an attorney:~~

~~(3-31-22)~~

~~**a.** A corporation, or any other business entity other than a general partnership;~~

~~(3-31-22)~~

~~**b.** A municipal corporation, local government agency, unincorporated association or nonprofit organization; and~~

~~(3-31-22)~~

~~**e.** A state, federal or tribal governmental entity or agency~~

~~(3-31-22)~~

~~**042. PUBLIC NOTICE OF PETITION.**~~

~~Within fourteen (14) days of the date a petition is filed with the Board, the Board will give reasonable notice to the public. The methods for giving notice will include, at a minimum, the following:~~

~~(3-31-22)~~

~~**01. Publication.** Publish a one-time legal notice in the newspaper of general circulation in the county in which the petitioner resides or in which the facility or other subject of the petition is located and post the petition on the agency's website at <http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. The legal notice will describe the nature of the action initiated by the filing of the petition and will include the date the petition was filed, ~~the deadline for filing petitions to intervene~~, and a method by which interested persons may obtain a copy of the petition; and~~

~~(3-31-22)(7-1-24)T~~

~~**02. Mail.** Deliver via email, or First Class U.S. mail if email address is not available, a copy of the legal notice prepared in accordance with Subsection 042.01 of these rules to persons on any mailing list developed by the Department relating to the subject matter of the petition.~~

~~(3-31-22)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

~~**062. PETITIONER HAS BURDEN OF PROOF.**~~

~~Unless otherwise provided by statute, the petitioner has the burden of proving by a preponderance of the evidence, the allegations in the petition.~~

~~(3-31-22)~~

~~**063. DISMISSAL OF INACTIVE CASES.**~~

~~In the absence of a showing of good cause for retention, any case in which no action has been taken for a period of six (6) months will be dismissed. At least fourteen (14) days prior to such dismissal, the notice of the pending dismissal will be served on all parties by mailing the notice to the last known addresses most likely to give notice to the parties.~~

~~(3-31-22)~~

0642. -- 159. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

~~161. RESPONSE.~~

The response must: (3-31-22)

~~01. Content. (3-31-22)~~

~~a. Separately admit or deny to each factual averment in the petition; (3-31-22)~~

~~b. Separately admit or deny the applicability of each legal authority asserted in the petition; (3-31-22)~~

~~c. Fully state any additional facts necessary to the decision of the contested case; (3-31-22)~~

~~d. Refer to any additional provisions of statute, rule, order or other controlling law upon which it is based. Legal assertions will be accompanied by citations of cases and statutory provisions; and (3-31-22)~~

~~e. State the relief sought; and (3-31-22)~~

~~02. Filing. Be filed within twenty one (21) days after service of the petition, unless an order or stipulation modifies the time within which a response may be made, or a motion to dismiss is filed within twenty one (21) days. When a response is not timely filed under this rule, the presiding officer may enter a default order pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 700 through 702. (3-31-22)~~

~~162. MOTIONS.~~

~~01. Defined. All pleadings requesting the Board or presiding officer to take any action in a contested case, except petitions, are called "motions." Motions include, but are not limited to, those allowed by the Idaho Rules of Civil Procedure. (3-31-22)~~

~~02. Procedure on Prehearing Motions. The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer will state the grounds for denying the request. Unless otherwise provided by the presiding officer, motions for summary judgment are governed by the Idaho Rules of Civil Procedure, including the form, standard for determining, procedure and time frames for filing and responding. For any other motion, unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) responding to the motion(s) will have fourteen (14) days to respond. The presiding officer may allow an opportunity for the movant to file a reply brief. (3-31-22)~~

1631. -- 351. (RESERVED)

352. ~~TIMELY FILING OF~~ PETITIONS TO INTERVENE - **PROCEEDINGS INVOLVING A PERMIT.**

~~01. General. Petitions to intervene must be filed within fourteen (14) days of publication of the notice of filing of the petition initiating a contested case as provided in Section 042 of these rules unless a different time is provided by order or notice. (3-31-22)~~

~~02. Proceedings Involving a Permit. A permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. Petitions to intervene by the permit applicant or permit holder must be filed within twenty-one (21) days after service of the initiating petition as provided in Subsection 008.01.b.iii. of these rules upon the permit applicant or permit holder. (3-31-22)(7-1-24)T~~

~~03. **Petitions Not Timely Filed.** The presiding officer may deny or conditionally grant a petition to intervene if the petition is not timely filed and does not state good cause for untimely filing, or if granting the petition unconditionally would cause disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenor orders are bound by orders and notices entered earlier in the proceeding. (3-31-22)~~

~~353. **GRANTING PETITIONS TO INTERVENE.**~~

~~01. **General.** If a timely petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the presiding officer may grant intervention, subject to reasonable conditions. In addition, upon timely filing of a petition in accordance with Subsection 352.02 of these rules, a permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. (3-31-22)~~

~~02. **Intervenor Response.** Within fourteen (14) days of the service date of the order granting the petition to intervene, the intervenor must file a response to the petition initiating the contested case and include the content in Subsection 161.01 of these rules. (3-31-22)~~

~~354.—409. **(RESERVED)**~~

~~410. **BOARD MEMBERS AS PRESIDING OFFICERS, APPOINTMENT OF HEARING OFFICERS.**~~

~~One (1) member of the Board may act as the presiding officer. The Board may appoint a hearing officer to act as the presiding officer on behalf of the Board. The hearing coordinator will administer the appointment of the hearing officer. Notice of appointment of a hearing officer or notice of a Board member who will act as presiding officer will be served on all parties. (3-31-22)~~

~~411.—719. **(RESERVED)**~~

~~720. **RECOMMENDED ORDERS.**~~

~~01. **Board Reviews.** A recommended order is an order issued by the presiding officer that will become a final order only after review by the Board pursuant to Section 67-5244, Idaho Code. A recommended order that becomes a final order is a final agency action and may be subject to judicial review pursuant to Section 39-107(6), Idaho Code. (3-31-22)~~

~~02. **Content.** Every recommended order will include a schedule for Board review and contain the following paragraphs: (3-31-22)~~

~~a. This is a recommended order of the presiding officer and will not become final without action of the Board.; and (3-31-22)~~

~~b. The Board will allow all parties an opportunity to file briefs in support or taking exceptions to the recommended order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator will issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (3-31-22)~~

~~721.—729. **(RESERVED)**~~

~~730. **PRELIMINARY ORDERS.**~~

~~01. **Board May Review.** A preliminary order is an order issued by the presiding officer that will become a final order unless reviewed by the Board pursuant to Section 67-5245, Idaho Code. A preliminary order that becomes a final order is a final agency action and may be subject to judicial review pursuant to Section 39-107(6), Idaho Code. (3-31-22)~~

~~02. **Content.** Every preliminary order will contain the following paragraphs: (3-31-22)~~

~~a. This is a preliminary order of the presiding officer and will become final without further action of the Board unless any party appeals to the Board by filing a petition for review of the preliminary order; and (3-31-22)~~

~~b. Within fourteen (14) days of the service date of this preliminary order, any party may take exceptions to any part of this preliminary order by filing a petition for review of the preliminary order. Otherwise, this preliminary order will become a final order of the Board. The basis for review must be stated in the petition. The Board may review the preliminary order on its own motion. (3-31-22)~~

~~03. **Review of Preliminary Orders.** If any party files a petition for review of the preliminary order, the Board will allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator will issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (3-31-22)~~

~~731~~**353.** -- 899. (RESERVED)

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all required information concerning their intent to change or make new the following rules in the latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is July 17, 2024, unless otherwise posted.  
The proposed rule written comment submission deadline is July 24, 2024, unless otherwise posted.  
(\*Temp & Prop) indicates the rulemaking is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 7249, Boise, ID 83707

**\*02-0303-2402, Rules Governing Pesticide and Chemigation Use and Application.** (\*PH) (Temp & Prop) Rule edits are to comply with recent legislation that amended chemigation applicator license categorization and aim to simplify the license acquisition and maintenance process.

#### IDAPA 08 – STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

**08-0111-2401, Registration of Postsecondary Educational Institutions and Proprietary Schools.** (Temp & Prop) Changes remove the term “regional” no longer recognized by the US Dept. of Education for accreditation and eliminate unnecessary regulatory language.

**08-0201-2401, Rules Governing Administration.** (Temp & Prop) Recent legislation requires the Board to collect and add to the state data system two additional data points, “Responsible District/School” and “Physically on Campus,” to properly calculate various funding streams.

#### IDAPA 11 – IDAHO STATE POLICE \ PEACE OFFICER STANDARDS AND TRAINING COUNCIL 700 S Stratford Dr, Meridian, ID 83642

**11-1101-2401, Rules of the Idaho Peace Officer Standards and Training Council.** (Temp & Prop) Amendments clarify disqualifying conduct regarding the use, purchase, or possession of illegal substances.

#### IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

**16-0418-2401, Children’s Agencies and Residential Licensing.** (Temp & Prop) Rulemaking makes corresponding changes to align the children’s agencies requirements for foster homes with updates in IDAPA 16.06.02, Foster Care Licensing.

**16-0602-2401 (Chapter Repeal), Foster Care Licensing.** (Temp & Prop) Chapter is repealed and replaced with companion docket 16-0602-2402.

**16-0602-2402 (Chapter Rewrite), Foster Care Licensing.** (Temp & Prop) Chapter rewritten to expedite action on applications to 1 business day; makes evident that Department-appropriated funding can be used for reasonable modifications necessary to meet home health and safety standards for licensees; and moves closer to kin-specific licensure standards by defaulting to national model and deferring to foster parent, where appropriate.

#### IDAPA 20 – IDAHO DEPARTMENT OF LANDS PO Box 83720, Boise, ID 83720-0050

**20-0313-2401, Administration of Cottage Site Leases on State Lands.** Zero-Based Regulation (ZBR) Rewrite provides guidance for residential cottage site leasing on state lands by establishing assignment restrictions and annual

rent determination.

**20-0314-2401, Rules Governing Grazing, Farming, and Conservation Leases.** ZBR Rewrite outlines procedures for leasing, no longer than 20 years, of state endowment trust land for grazing, farming, conservation, and other uses treated similarly under Section 58-307, Idaho Code.

**20-0315-2401 (Fee Rule), Rules Governing Geothermal Leasing on Idaho State Lands.** ZBR Rewrite applies to lease assignments and terms for the exploration and extraction of any geothermal resource situated in state-owned mineral lands.

**20-0316-2401 (Fee Rule), Rules Governing Oil and Gas Leasing on Idaho State Lands.** ZBR Rewrite applies to lease assignments and terms for the exploration and extraction of oil and gas resources situated in state-owned mineral lands.

**20-0401-2301, Rules Pertaining to Forest Fire Protection.** ZBR Rewrite provides standards for forest fire protection, non-fee burn permitting, and for firefighting water supply and tool requirements for forest operations.

**20-0402-2301, Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws.** ZBR Rewrite implements Idaho law to provide for: hazard management agreements and contracts; burning requirements and slash hazard reduction standards associated with cutting timber or other forest products; and release or continuation of contractor liability for wildfire suppression costs.

#### IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

PO Box 83720, Boise, ID 83720-0063

**\*24-0301-2401, Rules of the State Board of Chiropractic Physicians. (\*PH)** ZBR Rewrite governs the practice of chiropractic in Idaho, to include licensure, education, practice standards, fees, and clinical nutrition certification.

**\*24-0901-2401, Rules of the Board of Examiners of Nursing Home Administrators. (\*PH)** ZBR Rewrite governs the practice of nursing home administration, to include licensure, fees, continuing education requirements, and Administrators-In-Training and Administrator Designee criteria.

**\*24-1901-2401 (Fee Rule), Rules of the Board of Examiners of Residential Care Facility Administrators. (\*PH)** ZBR Rewrite governs the practice of residential care facility administration in Idaho to include licensure, continuing education, discipline, fees, and training requirements.

**\*24-2401-2401, Rules of the Genetic Counselors Licensing Board. (\*PH)** ZBR Rewrite regulates the profession of genetic counseling and outlines licensure requirements, associated fees, and unprofessional or unethical conduct.

**\*24-3301-2401 (Fee Rule), Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho. (\*PH)** ZBR Rewrite governs the practice of medicine and osteopathic medicine in Idaho to include: domestic and international licensure; continuing education requirements; practice standards for collaborating, directing, supervising, and prelitigation panelist physicians; licensing fees; and discipline.

**\*24-3302-2401, Rules for the Licensure of Physician Assistants. (\*PH)** ZBR Rewrite governs the practice of physician and graduate physician assistants by establishing licensure and continuing education requirements, practice standards, and licensing fees.

**\*24-3303-2401 (Chapter Repeal), General Provisions of the Board of Medicine. (\*PH)** ZBR Repeal moves necessary provisions to 24.33.01.

**\*24-3304-2401, Rules for the Licensure of Naturopathic Medical Doctors. (\*PH)** ZBR Rewrite governs the licensure, scope of practice, and discipline of the naturopathic medical doctors in Idaho.

**\*24-3305-2401, Rules for the Licensure of Athletic Trainers to Practice in Idaho. (\*PH)** ZBR Rewrite governs the practice of athletic training in Idaho which requires formulation of a training service plan or protocol, supervision by and referral from a directing physician, and associated fees.

**\*24-3306-2401, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho. (\*PH)** ZBR Rewrite governs the practice of respiratory care and polysomnography related to respiratory care.

**\*24-3307-2401, Rules for the Licensure of Dietitians. (\*PH)** ZBR Rewrite governs practice of dietetics, outlining fees and provisional licensure.

#### IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N Hilton St, Boise, Idaho 83706

**58-0123-2401, Contested Case Rules and Rules for Protection and Disclosure of Records. (Temp & Prop)** Substantive changes remove and replace references from Attorney General rules no longer effective and direct to Office of Administrative Hearings rules for contested cases.

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*13-0000-2400P4*, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

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*08-0203-2402*, Rules Governing Thoroughness

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*11-0501-2402*, Rules Governing Alcohol Beverage Control

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*16-0601-2403*, Child and Family Services

*16-0603-2401*, Daycare Licensing

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*02-0212-2401*, Bonded Warehouse Rules

*02-0301-2401*, Rules Governing Pesticide Management Plans for Ground Water Protection

*02-0403-2401*, Rules Governing Animal Industry

*02-0415-2401*, Rules Governing Beef Cattle Animal Feeding Operations

*02-0419-2401*, Rules Governing Domestic Cervidae

*02-0501-2401*, Rules Governing Produce Safety

*02-0609-2402*, Rules Governing Invasive Species and Noxious Weeds

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*09-0101-2401*, Rules of Administrative Procedure of the Department of Labor

*09-0130-2401*, Unemployment Insurance Benefits Administration Rules

*09-0135-2401*, Unemployment Insurance Tax Administration Rules

**IDAPA 11 – IDAHO STATE POLICE**

*11-0201-2401*, Rules of the Idaho State Brand Board

*11-0501-2403*, Rules Governing Alcohol Beverage Control

**IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME**

*13-0111-2401*, Rules Governing Fish

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**

*18-ZBRR-2401*, Agency Omnibus ZBR Negotiated Rulemaking promulgates Title 01, Chapter 01; Title 03, Chapters 02-04; Title 04, Chapter 03; Title 05, Chapter 01; Title 06, Chapter 06; and Title 07, Chapters 04, 05.

*18-0415-2401*, Rules Governing Short-Term Health Insurance Coverage

*18-0801-2401*, Adoption of the International Fire Code

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

*24-2201-2401*, Rules of the Idaho State Liquefied Petroleum Gas Safety Board

*24-3910-2402*, Rules of the Idaho Electrical Board

*24-3940-2401*, Safety Rules for Elevators, Escalators, and Moving Walks

*24-3960-2401*, Rules Governing Uniform School Building Safety

*24-3980-2401*, Idaho Minimum Safety Standards and Practices for Logging

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*35-0103-2401*, Property Tax Administrative Rules

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**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**

**39-ZBRR-2402**, Agency Omnibus ZBR Negotiated Rulemaking promulgates Title 03, Chapters 41, 60, 65.

Please refer to the Idaho Administrative Bulletin **July 3, 2024, Volume 24-7**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

*Electronic issues of the Idaho Administrative Bulletin can be viewed at [www.adminrules.idaho.gov/](http://www.adminrules.idaho.gov/)*

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# **CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*Office of the Administrative Rules Coordinator  
Division of Financial Management  
Office of the Governor  
July 1, 1993 – Present*

## **CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

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Division of Financial Management*

*April 6, 2023 – July 3, 2024*

*(PLR 2024) – Final Effective Date Is Pending Legislative Review in 2024*

*(eff. date)L – Denotes Adoption by Legislative Action*

*(eff. date)T – Temporary Rule Effective Date*

*SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)*

*HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)*

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***02.02.15, Rules Governing the Seed Indemnity Fund***

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**02-0303-2401** Adoption of Temporary Rule, Bulletin Vol. 24-5 (eff. 4-22-24)T [*expires 7-1-24*]

**02-0303-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)

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- [02-0609-2304](#) *Adoption of Temporary Rule, Bulletin Vol. 24-1 (eff. 12-18-23)T [expires sine die 2024]*
  
- [02-0609-2303](#) *Adoption of Temporary Rule, Bulletin Vol. 23-11 (eff. 10-19-23)T [superseded]*
  
- [02-0609-2302](#) *Adoption of Temporary Rule, Bulletin Vol. 23-10 (eff. 9-21-23)T [superseded]*
  
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**08-0113-2302** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)

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**11-0401-2301** Adoption of Pending Rule (New Chapter, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)

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- 12-0104-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
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- 12-ZBRR-2301** *Rules of the Department of Finance – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 08 – Bulletin Vol. 23-8*

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- 12-ZBRR-2301** *Rules of the Department of Finance – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 10 – Bulletin Vol. 23-8*

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**18-0601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

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**18.07.06, Life and Health Reinsurance Agreements**

**18-0706-2301\*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

\*Changes chapter name from: “Rules Governing Life and Health Reinsurance Agreements”

**18-0706-2301\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

**18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 06 – Bulletin Vol. 23-6

**18.07.10, Corporate Governance Annual Disclosure**

**18-0710-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

**18-0710-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9



**18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 10 – Bulletin Vol. 23-6

### **18.08.01, Adoption of the International Fire Code**

**18-0801-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

**18-0801-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

**18-0801-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

**18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 08, Chapter 01 – Bulletin Vol. 23-6

## **IDAPA 20 – DEPARTMENT OF LANDS**

### **20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners**

**44-0000-2400** *Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 20.01.01* – Bulletin Vol. 24-7

**20-0101-2301** *Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)*

**20-0101-2301** *Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8*

**20-0101-2301** *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5*

### **20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho**

**20-0301-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)

**20-0301-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**20-0301-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### **20.03.02, Rules Governing Mined Land Reclamation**

**20-0302-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### **20.03.03, Rules Governing Administration of the Reclamation Fund**

**20-0303-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)

**20-0303-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**20-0303-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### **20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho**

**20-0304-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### **20.03.05, Navigable Waterways Mineral Leasing in Idaho**

**20-0305-2301\*** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)

*\*Changes chapter name from: “Riverbed Mineral Leasing in Idaho”*

**20-0305-2301\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**20-0305-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### **20.03.13, Administration of Cottage Site Leases on State Lands**

**20-0313-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**20-0313-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3

### **20.03.14, Rules Governing Grazing, Farming, and Conservation Leases**

**20-0314-2401\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

*\*Changes chapter name from: “Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases”*

**20-0314-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3

### **20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands**

**20-0315-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-7

**20-0315-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3

### **20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands**

**20-0316-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-7

**20-0316-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3

**20.04.01, Rules Pertaining to Forest Fire Protection**

- 20-0401-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7
- 20-0401-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-10

**20.04.02, Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws**

- 20-0402-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7
- 20-0402-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-10

**20.05.01, Rules Pertaining to the Recreational Use of Endowment Land**

- 20-0501-2301 Adoption of Pending Rule (New Chapter), Bulletin Vol. 24-1 (PLR 2024)
- 20-0501-2301 Notice of Proposed Rulemaking (New Chapter), Bulletin Vol. 23-10
- 20-0501-2301 Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 23-6

**20.07.02, Rules Governing Conservation of Oil and Natural Gas in the State of Idaho**

- 20-0702-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

**IDAPA 21 – DIVISION OF VETERANS SERVICES**

**21.01.01, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure**

- 44-0000-2400 Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 21.01.01 – Bulletin Vol. 24-7

**21.01.04, Rules Governing Idaho State Veterans Cemeteries**

- 21-0104-2402 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 24-6
  
- 21-0104-2401 Adoption of Temporary Rule (Fee Rule), Bulletin Vol. 24-5 (eff. 4-10-24)T
  
- 21-0104-2301 Adoption of Pending Rule, Bulletin Vol. 23-11 (PLR 2024)
- 21-0104-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-3 (eff. 3-1-23)T [*temporary rule expires sine die 2024*]

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**

- 24-ZBRR-2401 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 01; Title 03, Chapter 01; Title 08, Chapter 01; Title 09, Chapter 01; Title 19, Chapter 01; Title 24, Chapter 01; Title 29, Chapter 01; Title 33, Chapters 01-07; and Title 36, Chapter 01 – Bulletin Vol. 24-4

- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-6

- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-4

**24.01.01, Rules of the Board of Architects and Landscape Architects**

- 24-0101-2301\* Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)  
*\*Changes chapter name from: “Rules of the Board of Architectural Examiners”*
- 24-0101-2301\* Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 23-6
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 23-4

**24.02.01, Rules of the State Athletic Commission**

- 24-0201-2401 Adoption of Temporary Rule (New Chapter, Fee Rule), Bulletin Vol. 24-6 (eff. 6-1-24)T

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 01 – Bulletin Vol. 24-4

**24.03.01, Rules of the State Board of Chiropractic Physicians**

**24-0301-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 01 – Bulletin Vol. 24-4

**24.04.01, Rules of Procedure of the Board of Registration for Professionals Geologists**

**24-0401-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

**24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals**

**24-0501-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)

**24-0501-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 05, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 05, Chapter 01 – Bulletin Vol. 23-4

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**24-0601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)

**24-0601-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-4

**24.07.01, Rules of the Idaho State Board of Landscape Architects**

**24-0701-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)

**24-0701-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 07 – Bulletin Vol. 23-4

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**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 08, Chapter 01 – Bulletin Vol. 24-4

**24.09.01, Rules of the Board of Examiners of Nursing Home Administrators**

**24-0901-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 09, Chapter 01 – Bulletin Vol. 24-4

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**24-1101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)

**24-1101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-4

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**24-1301-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)

**24-1301-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 13, Chapter 01 – Bulletin Vol. 23-6

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 13, Chapter 01 – Bulletin Vol. 23-4

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- 24-1401-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)  
**24-1401-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 14, Chapter 01 – Bulletin Vol. 23-6  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 1s4, Chapter 01 – Bulletin Vol. 23-4

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

- 24-1501-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)  
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**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 15, Chapter 01 – Bulletin Vol. 23-6  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 15, Chapter 01 – Bulletin Vol. 23-4

**24.16.01, Rules of the State Board of Dentistry**

- 24-1601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)  
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**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 16, Chapter 01 – Bulletin Vol. 23-6  
**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 16, Chapter 01 – Bulletin Vol. 23-4

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- 24-1801-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)  
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**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 18, Chapter 01 – Bulletin Vol. 23-6  
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**24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators**

- 24-1901-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-7  
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- 24-2101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

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- 24-2201-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

**24.24.01, Rules of the Genetic Counselors Licensing Board**

- 24-2401-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7  
**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 24, Chapter 01 – Bulletin Vol. 24-4

**24.27.01, Rules of the Idaho State Board of Massage Therapy**

- 24-2701-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)  
**24-2701-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8  
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- 24-2801-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)  
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**24-3101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)

**24-3101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9

**24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 31, Chapter 01 – Bulletin Vol. 23-6

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**24-3201-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

**24.33.01, Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho**

**24-3301-2401\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-7

*\*Changes chapter name from: “Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho”*

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 33, Chapter 01 – Bulletin Vol. 24-4

**24-3301-2301** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)

**24-3301-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10

**24-3301-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

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**24-3302-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 33, Chapter 02 – Bulletin Vol. 24-4

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**24-3303-2401** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 24-7

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**24-3304-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

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**24.33.05, Rules for the Licensure of Athletic Trainers to Practice in Idaho**

**24-3305-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 33, Chapter 05 – Bulletin Vol. 24-4

**24.33.06, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho**

**24-3306-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 33, Chapter 06 – Bulletin Vol. 24-4

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**24-3307-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-7

**24-ZBRR-2401** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 33, Chapter 07 – Bulletin Vol. 24-4

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- 24-3501-2401 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6
- 24-3501-2301 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
- 24-3501-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-9
- 24-3501-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

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- 24-ZBRR-2401 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 36, Chapter 01 – Bulletin Vol. 24-4
- 24-3601-2401 Adoption of Temporary Rule, Bulletin Vol. 24-4 (eff. 7-1-24)T
- 24-3601-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
- 24-3601-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-12

**24.37.01, Rules of the Idaho Real Estate Commission**

- 24-3701-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

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- 24-3801-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
- 24-3801-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 38, Chapter 01 – Bulletin Vol. 23-6
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 38, Chapter 01 – Bulletin Vol. 23-4

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- 24-3910-2402 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7
- 24-3910-2401 Adoption of Temporary Rule, Bulletin Vol. 24-5 (eff. 4-19-24)T
- 24-3910-2302 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
- 24-3910-2302 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 23-10
- 24-3910-2302 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6
- 24-3910-2301 Adoption of Temporary Rule, Bulletin Vol. 23-5 (eff. 3-28-23)T [*expires sine die 2024*]

**24.39.30, Rules of Building Safety (Building Code Rules)**

- 24-3930-2401 Adoption of Temporary Rule (New Chapter, Fee Rule), Bulletin Vol. 24-5 (eff. 4-23-24)T [*expires 7-1-24*]
- 24-3930-2302 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
- 24-3930-2302 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
- 24-3930-2302 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6
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- 24-3930-2301 Notice of Rulemaking – Adoption of Temporary (Fee) Rule, Bulletin Vol. 23-4 (eff. *sine die* 2023)T [*expires sine die 2024*]

**24.39.31, Rules for Factory Built Structures**

- 24-3931-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
- 24-3931-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 31 – Bulletin Vol. 23-6
- 24-ZBRR-2301 **Rules of the Division of Occupational and Professional Licenses** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 31 – Bulletin Vol. 23-4

**24.39.40, Safety Rules for Elevators, Escalators, and Moving Walks**

- 24-3940-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

**24.39.50, Rules of the Public Works Contractors License Board**

- 24-3950-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
- 24-3950-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
- 24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 50 – Bulletin Vol. 23-6
- 24-ZBRR-2301** *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 39, Chapter 50 – Bulletin Vol. 23-4

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- 24-3980-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

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- 24-3990-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

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- 24-4001-2301** Adoption of Pending Rule (New Chapter), Bulletin Vol. 23-11 (PLR 2024)
- 24-4001-2301** Notice of Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 23-9
- 24-4001-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking (New Chapter), Bulletin Vol. 23-7

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- 26-0110-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
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**26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities**

- 26-0120-2301** Adoption of Pending Rule (Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
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- 26-0134-2201** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)
- 26-0134-2201** Temporary and Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-8 (eff. 8-30-23)T [*temporary rule expires sine die 2024*]
- 26-0134-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-4

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- 29-0101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 29-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
- 29-0101-2301** (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5
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- 31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 12, Chapter 01; Title 21, Chapter 01; Title 26, Chapter 01; and Title 31, Chapter 01 – Bulletin Vol. 23-6

**31.12.01, System of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission**

- 31-1201-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 31-1201-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
- 31-ZBRR-2301** *Rules of the Idaho Public Utilities Commission* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 12, Chapter 01 – Bulletin Vol. 23-6

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- 31-2101-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 31-2101-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
- 31-ZBRR-2301 **Rules of the Idaho Public Utilities Commission** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 21, Chapter 01 – Bulletin Vol. 23-6

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- 31-2601-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 31-2601-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
- 31-ZBRR-2301 **Rules of the Idaho Public Utilities Commission** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 26, Chapter 01 – Bulletin Vol. 23-6

**31.31.01, Gas Service Rules**

- 31-3101-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 31-3101-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
- 31-ZBRR-2301 **Rules of the Idaho Public Utilities Commission** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 31, Chapter 01 – Bulletin Vol. 23-6

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- 35-0101-2301 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
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- 35-0101-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

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- 35-0102-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-11

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- 35-0103-2401 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7
  
- 35-0103-2302 *Adoption of Temporary Rule, Bulletin Vol. 23-6 (eff. 5-8-23)T [expires sine die 2024]*
  
- 35-0103-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
- 35-0103-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
- 35-0103-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

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- 35-0108-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
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- 35-0108-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

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- 35-0110-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

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36-0101-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-11

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37-0308-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10

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44-0000-2400 Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 38.05.01 – Bulletin Vol. 24-7

### ***IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT***

39-ZBRR-2402 *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapters 41, 60, 65 – Bulletin Vol. 24-7

39-ZBRR-2401 *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapters 03, 72, 75 – Bulletin Vol. 24-5

39-ZBRR-2303 *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 22; and Title 03, Chapters 01-07 – Bulletin Vol. 23-7

39-ZBRR-2302 *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapters 40, 42, 48, 50; & Title 04, Chapter 01 – Bulletin Vol. 23-6

39-ZBRR-2301 *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapters 04, 42, 46, 60; & Title 03, Chapter 08 – Bulletin Vol. 23-5

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44-0000-2400 Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 39.02.04 – Bulletin Vol. 24-7

39-0204-2301 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)

39-0204-2301 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10

**39-ZBRR-2301** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 04 – Bulletin Vol. 23-5*

**39.02.22, Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers**

**39-0222-2301** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)

**39-0222-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10

**39-ZBRR-2303** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 22 – Bulletin Vol. 23-7*

**39.02.42, Rules Governing Conditional Vehicle Registration and Temporary Registration**

**39-0242-2301\*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

*\*Changes chapter name from: “Rules Governing Conditional Vehicle Registration When Proof of Ownership is Insufficient”*

**39-0242-2301\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10

**39-ZBRR-2301** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 42 – Bulletin Vol. 23-5*

**39.02.46, Rules Governing Temporary Motor Vehicle Registration Permit**

**39-0246-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)

**39-0246-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10

**39-ZBRR-2301** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 46 – Bulletin Vol. 23-5*

**39.02.60, Rules Governing License Plate Provisions**

**39-0260-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

**39-0260-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10

**39-ZBRR-2301** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 60 – Bulletin Vol. 23-5*

**39.02.72, Rules Governing Administrative License Suspensions**

**44-0000-2400** *Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 39.02.72 – Bulletin Vol. 24-7*

**39-ZBRR-2401** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 72 – Bulletin Vol. 24-5*

**39.02.75, Rules Governing Names on Driver's Licenses and Identification Cards**

**39-ZBRR-2401** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 75 – Bulletin Vol. 24-5*

**39.02.76, Rules Governing Driver's License and Identification Card Renewal-by-Mail and Electronic Renewal and Replacement Processes**

**39-0276-2301** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)

**39-0276-2301** Notice of Temporary and Proposed Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T [*temporary rule expires sine die 2024*]

**39-0276-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-5

**39.03.01, Rules Governing Special Permits**

**39-0301-2301\*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)

*\*Changes chapter name from: “Rules Governing Definitions Regarding Special Permits”*

**39-0301-2301\*** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10

**39-ZBRR-2303** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 01 – Bulletin Vol. 23-7*

**39.03.02, Rules Governing Movement of Disabled Vehicles**

**39-0302-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)

**39-0302-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10

**39-ZBRR-2303** *Rules of the Idaho Transportation Department – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 02 – Bulletin Vol. 23-7*

**39.03.03, Rules Governing Special Permits - General Conditions and Requirements**

**39-0303-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)

- 39-0303-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10  
**39-ZBRR-2303** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 03 – Bulletin Vol. 23-7

**39.03.04, Rules Governing Special Permits - Overweight Non-Reducible**

- 39-0304-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)  
**39-0304-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10  
**39-ZBRR-2303** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 04 – Bulletin Vol. 23-7

**39.03.05, Rules Governing Special Permits - Oversize Non-Reducible**

- 39-0305-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)  
**39-0305-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10  
**39-ZBRR-2303** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 05 – Bulletin Vol. 23-7

**39.03.06, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations**

- 39-0306-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)  
**39-0306-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10  
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**39.03.07, Rules Governing Special Permits for Reducible Loads**

- 39-0307-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)  
**39-0307-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10  
**39-ZBRR-2303** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 07 – Bulletin Vol. 23-7

**39.03.08, Rules Governing Self-Propelled Snowplows**

- 39-0308-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)  
**39-0308-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10  
**39-ZBRR-2301** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 08 – Bulletin Vol. 23-5

**39.03.40, Rules Governing Junkyards and Dumps**

- 39-0340-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)  
**39-0340-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10  
**39-ZBRR-2302** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 40 – Bulletin Vol. 23-6

**39.03.41, Rules Governing Traffic Control Devices**

- 39-ZBRR-2402** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 41 – Bulletin Vol. 24-7

**39.03.42, Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way**

- 39-0342-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)  
**39-0342-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10  
**39-ZBRR-2302** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 42 – Bulletin Vol. 23-6

**39.03.48, Rules Governing Routes Exempt from Local Plans and Ordinances**

- 39-0348-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)  
**39-0348-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10  
**39-ZBRR-2302** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 48 – Bulletin Vol. 23-6

**39.03.50, Rules Governing Safety Rest Areas**

- 39-0350-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)  
**39-0350-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10

**39-ZBRR-2302** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 50 – Bulletin Vol. 23-6

**39.03.60, Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs**

**39-ZBRR-2402** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 60 – Bulletin Vol. 24-7

**39.03.65, Rules Governing Traffic Minute Entries**

**39-ZBRR-2402** *Rules of the Idaho Transportation Department* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 65 – Bulletin Vol. 24-7

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