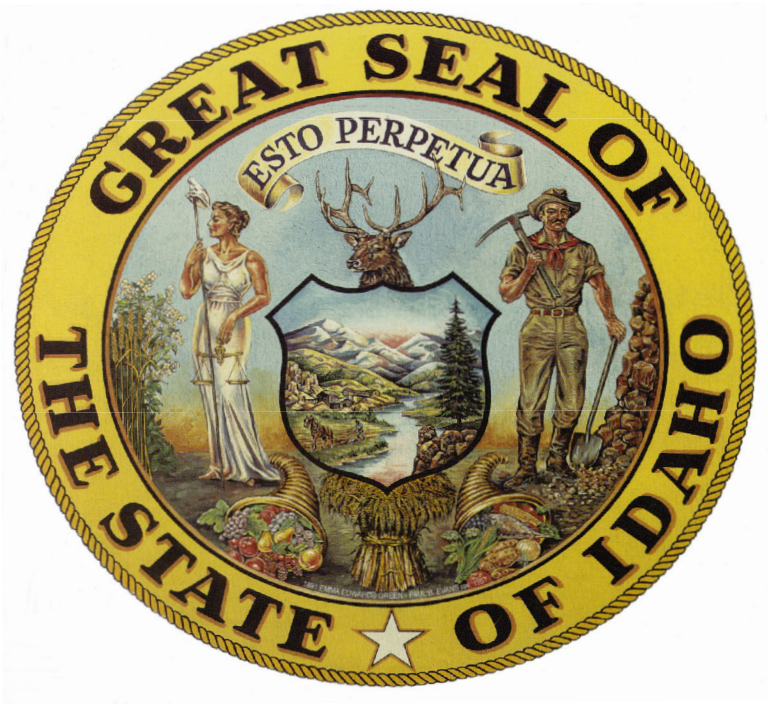
# IDAHO ADMINISTRATIVE BULLETIN

## September 4, 2024 – Vol. 24-9

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




The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Office of the Governor, pursuant to Title 67, Chapter 52, Idaho Code.

# *IDAHO ADMINISTRATIVE BULLETIN*

## *Table of Contents*

### *September 4, 2024 – Vol. 24-9*

# 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.

## 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 | ***September 1, 2023** | 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 | ****November 27, 2023** | January 3, 2024 | January 24, 2024 |

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| 24-3 | March 2024 | January 26, 2024 | February 9, 2024 | March 6, 2024 | March 27, 2024 |
| 24-4 | April 2024 | February 23, 2024 | March 8, 2024 | April 3, 2024 | April 24, 2024 |
| 24-5 | May 2024 | March 22, 2024 | April 5, 2024 | May 1, 2024 | May 22, 2024 |
| 24-6 | June 2024 | April 19, 2024 | May 3, 2024 | June 5, 2024 | June 26, 2024 |
| 24-7 | July 2024 | May 24, 2024 | June 7, 2024 | July 3, 2024 | July 24, 2024 |
| 24-8 | August 2024 | June 21, 2024 | July 5, 2024 | August 7, 2024 | August 28, 2024 |
| 24-9 | September 2024 | July 19, 2024 | August 2, 2024 | September 4, 2024 | September 25, 2024 |
| 24-10 | October 2024 | August 16, 2024 | ***August 30, 2024** | October 2, 2024 | October 23, 2024 |
| 24-11 | November 2024 | September 20, 2024 | October 4, 2024 | November 6, 2024 | November 27, 2024 |
| 24-12 | December 2024 | October 25, 2024 | November 8, 2024 | December 4, 2024 | December 25, 2024 |
| 25-1 | January 2025 | November 15, 2024 | ****November 29, 2024** | 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.*

## ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

| | |
|---|---|
| **IDAPA 38** | **Administration**, Department of |
| **IDAPA 62** | **Administrative Hearings**, Office of |
| **IDAPA 02** | **Agriculture**, Idaho State Department of |
| **IDAPA 40** | **Arts**, Idaho Commission on the |
| **IDAPA 04** | **Attorney General,** Office of the |
| **IDAPA 53** | **Barley Commission**, Idaho |
| **IDAPA 51** | **Beef Council**, Idaho |
| **IDAPA 55** | **Career Technical Education**, Division of |
| **IDAPA 28** | **Commerce**, Idaho Department of |
| **IDAPA 06** | **Correction**, Idaho Department of |
| **IDAPA 08** | **Education**, State Board of and State Department of |
| **IDAPA 32** | **Endowment Fund Investment Board** |
| **IDAPA 58** | **Environmental Quality**, Department of |
| **IDAPA 12** | **Finance**, Idaho Department of |
| **IDAPA 13** | **Fish and Game**, Idaho Department of |
| **IDAPA 15** | **Governor**, Office of the<br>Idaho Commission on Aging (15.01)<br>Idaho Commission for the Blind and Visually Impaired (15.02)<br>Idaho Forest Products Commission (15.03)<br>Division of Human Resources and Personnel Commission (15.04)<br>Idaho Military Division (Division of Homeland Security) (15.06)<br>Idaho State Liquor Division (15.10) |
| **IDAPA 48** | **Grape Growers and Wine Producers Commission,** Idaho |
| **IDAPA 16** | **Health and Welfare**, Department of |
| **IDAPA 41** | **Health Districts,** Public |
| **IDAPA 45** | **Human Rights Commission** |
| **IDAPA 17** | **Industrial Commission,** Idaho |
| **IDAPA 18** | **Insurance**, Idaho Department of |
| **IDAPA 05** | **Juvenile Corrections**, Department of |
| **IDAPA 09** | **Labor**, Idaho Department of |

## ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

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

## ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

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

# *THE OFFICE OF THE GOVERNOR*

***EXECUTIVE DEPARTMENT***
***STATE OF IDAHO***
***BOISE***

## *EXECUTIVE ORDER NO. 2024-08*

### *DEFENDING WOMEN'S SPORTS ACT*

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*WHEREAS, Title IX was signed into law in 1972 to provide fairness for female athletes in our country; and*

*WHEREAS, generations of women and men have worked hard to promote and advance women's sports in society, and Idaho is committed to upholding their hard work by protecting and defending women's sports in today's age; and*

*WHEREAS, many female athletes have dedicated themselves tirelessly to their sport since young ages and deserve to compete fairly with other female athletes; and*

*WHEREAS, biological males – men and boys – have innate physical differences that give them an unfair advantage when competing with women and girls, a fact that's just common sense; and*

*WHEREAS, continued federal overreach through the administrative state has been challenged and declared "fundamentally misguided" by the U.S. Supreme Court; and*

*WHEREAS, Idaho has continued to cut and simplify its administrative code while the Biden-Harris administration continues to make it more complicated, overreaching, and overbearing through the release of its new 1,500-plus page Title IX rules; and*

*WHEREAS, Idaho has passed multiple laws protecting the definition of man and woman, barring public funds for gender affirming care, protecting minors from harmful medical procedures and gender transitioning, and was the first state in the nation to protect females by passing our law on fairness in women's sports; and*

*WHEREAS, the Biden-Harris administration's radical redefinition of gender in the new 1,500 page rewrite of Title IX rules will jeopardize the great work we have done here in Idaho to protect our female students; and*

*WHEREAS, the State of Idaho will continue to push the Biden-Harris administration to adopt its own Red Tape Reduction Act rather than saddling our fellow states with foolish rules from the administrative state.*

*NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, pursuant to the Constitution and laws of Idaho, hereby order the Idaho State Board of Education to:*

1. *Work with the Idaho State Department of Education to ensure public schools are properly following all of Idaho's laws related to fairness in women's sports and continue to update all public schools as the legal challenges to the new Title IX rules unfold; and*

2. *Work to guarantee every female student in Idaho be provided equal opportunity in sports and school to the fullest extent as guaranteed to them under the original Title IX rules and Idaho law.*

*With this Executive Order, I pledge the Idaho Governor's Office full support any pending or proposed legislation challenging the Biden-Harris administration's convoluted and unreasonable Title IX rules.*

*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 28th day of August, in the year of our Lord two thousand and twenty-four.*

*BRAD LITTLE*
*GOVERNOR*

*PHIL MCGRANE*
*SECRETARY OF STATE*

# OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
# IDAHO DIVISION OF FINANCIAL MANAGEMENT

## ADMINISTRATIVE RULES REVIEWED BY THE SIXTY-SEVENTH LEGISLATURE OF THE STATE OF IDAHO, SECOND REGULAR SESSION – 2024

## CORRECTED OMNIBUS NOTICE OF LEGISLATIVE ACTION – SUMMARY OF ACTION TAKEN ON PENDING, TEMPORARY, AND FINAL RULES

**AUTHORITY:** In compliance with Sections 67-5224(5), 67-5224(7), 67-5226(3), and 67-5291, Idaho Code, the Administrative Rules Coordinator hereby gives notice that the standing committees of the Sixty-Seventh Legislature in the Second Regular Session, 2024, completed the review of certain administrative rules of the state agencies of the executive branch. Additionally, in compliance with Section 67-5291, Idaho Code, this corrected notice also serves as official notice of final rulemaking for those state agencies whose rules have been approved as final or rejected in whole or in part by concurrent resolution, or had no action taken on them.

**DESCRIPTIVE SUMMARY:** The following is a brief description of the action taken by the standing committees of the legislature during the 2024 legislative session.

The Administrative Procedures Act (APA) requires that all pending rules be reviewed and approved by concurrent resolution of the legislature in order for the pending rule to become final and effective. The standing committees of the legislature have reviewed the pending rules submitted for review and final approval. A pending rule that is not approved by a concurrent resolution shall expire upon adjournment sine die of the legislative session during which the agency submits the pending rule to the legislature for review. Certain pending rules failed to be included in a concurrent resolution of the legislature and therefore lacked final approval.

Pending rules reviewed by the legislature that were approved are now final and of full force and effect. Section 67-5291, Idaho Code, requires a concurrent resolution of the legislature to approve or reject a pending rule that doesn't meet legislative intent based on finding of facts as to why the rule does not meet the legislative intent of the enabling statute by identifying how the rule is inconsistent with the authority granted by or the requirements of the corresponding section of Idaho Code. Any pending rule that was properly rejected pursuant to the APA in whole or in part is listed in this notice with the corresponding house or senate concurrent resolution affecting it. Pending rule dockets that were properly rejected in whole or any parts of any pending rule that were properly rejected, are null, void, and of no force and effect. Those rules that were acted on and approved by concurrent resolution became final and of full force and effect upon July 1, 2024, unless otherwise specified in the concurrent resolution.

In accordance with Section 67-5226(3), Idaho Code, all temporary rules that were submitted for extension have been reviewed and approved by a concurrent resolution. Temporary rules that were reviewed and extended will continue to be of full force and effect until the end of the next legislative session, unless they expire under their own terms or other provision of law or are rescinded, and any part of a temporary rule that was rejected is declared null, void, and of no force and effect.

**TEMPORARY AND PENDING RULES:** The following tables list all temporary and pending rulemakings that were submitted for legislative review to the 2024 legislative session. The list includes the docket number of each temporary and pending rulemaking, the volume number of the Bulletin in which the proposed, pending, and temporary rule notices and text were published, the final effective dates of all approved pending rules, the effective dates of any temporary rules, and the number of the senate or house concurrent resolution, if applicable, affecting the rulemaking. These tables provide final status of all pending and temporary rules submitted for legislative review.

## TEMPORARY RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Temporary Rule Docket Number | Bulletin Vol. No. | Temporary Effective Date | Rejected Rule | Action Taken |
|---|---|---|---|---|
| 16-0314-2301 | 23-12 | (11-14-23)T | | Extended by HCR 39 |

## PENDING RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Fee Rule Docket Number | Bulletin Vol. No. Pending | Bulletin Vol. No. Proposed | Final Rule Effective Date | Action Taken |
|---|---|---|---|---|
| 02-0213-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0214-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0215-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0303-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0414-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0423-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0430-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0432-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0601-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0602-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0604-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0609-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0610-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0616-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 02-0633-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 41 |
| 05-0102-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 42 |
| 05-0104-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 42 |
| ***05-0201-2301*** | ***24-1*** | ***23-10*** | ***Null and Void*** | ***Rejected by HCR 43*** |
| 08-0102-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 121 |
| 08-0113-2302 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 121 |
| 08-0203-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 121 |
| ***08-0401-2301*** | ***23-12*** | ***23-10*** | ***Null and Void*** | ***No Action Taken, Rulemaking Not Approved*** |
| 11-0201-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 41 |

## PENDING RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Fee Rule Docket Number | Bulletin Vol. No. Pending | Bulletin Vol. No. Proposed | Final Rule Effective Date | Action Taken |
|---|---|---|---|---|
| 11-0401-2301 | 23-12 | 23-5 | (7-1-24) | Approved by HCR 52 |
| 11-0701-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 42 |
| 11-0703-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 42 |
| 11-1001-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 42 |
| ***11-1301-2301*** | ***23-12*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 019.01.b. by SCR 120*** |
| 12-0104-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 48 |
| 12-0108-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 48 |
| 12-0110-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 48 |
| 13-0104-2301 | 24-1 | 23-9 | (7-1-24) | Approved by SCR 126 |
| 13-0106-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 13-0108-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 13-0111-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 13-0112-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 13-0115-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 15-0401-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 129 |
| ***15-1001-2301*** | ***24-1*** | ***23-10*** | ***(7-1-24)*** | ***Partial Rejection: 021.09 by HCR 52*** |
| 16-0102-2301 | 24-1 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0103-2301 | 24-1 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0202-2301 | 24-1 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 16-0206-2301 | 24-1 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0224-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0225-2301 | 23-12 | 23-7 | (7-1-24) | Approved by HCR 39 |
| 16-0301-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 16-0302-2301 | 24-1 | 23-9 | (7-1-24) | Approved by SCR 128 |
| 16-0304-2301 | 24-1 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 16-0305-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 39 |
| 16-0306-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 16-0309-2301 | 23-12 | 23-7 | (7-1-24) | Approved by HCR 39 |
| 16-0310-2101 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 39 |
| 16-0313-2101 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 39 |
| 16-0318-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 39 |

## PENDING RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Fee Rule Docket Number | Bulletin Vol. No. Pending | Bulletin Vol. No. Proposed | Final Rule Effective Date | Action Taken |
|---|---|---|---|---|
| 16-0322-2301 | 24-1 | 23-7 | (7-1-24) | Approved by HCR 39 |
| 16-0418-2301 | 24-1 | 23-5 | (7-1-24) | Approved by HCR 39 |
| ***16-0601-2301*** | ***24-1*** | ***23-7*** | ***Null and Void*** | ***Rejected by HCR 39*** |
| ***16-0602-2301*** | ***24-1*** | ***23-8*** | ***(7-1-24)*** | ***Partial Rejection: 402.02 by HCR 39*** |
| 16-0603-2301 | 24-1 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0719-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0725-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 16-0739-2301 | 24-1 | 23-10 | (7-1-24) | Approved by HCR 39 |
| ***17-1001-2301*** | ***23-11*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 011.07, 013.02 by SCR 129*** |
| 18-0102-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| ***18-0404-2301*** | ***23-12*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 011.03 by HCR 48*** |
| 18-0408-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0601-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0602-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0603-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0706-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0710-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 18-0801-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 20-0101-2301 | 24-1 | 23-8 | (7-1-24) | Approved by SCR 126 |
| ***20-0301-2301*** | ***24-1*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 051.01 by HCR 49*** |
| 20-0303-2301 | 24-1 | 23-9 | (7-1-24) | Approved by SCR 126 |
| 20-0305-2301 | 24-1 | 23-9 | (7-1-24) | Approved by SCR 126 |
| 20-0501-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| ***21-0104-2301*** | ***23-11*** | ***23-3*** | ***Null and Void*** | ***No Action Taken, Rulemaking Not Approved*** |
| 24-0101-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 48 |
| 24-0501-2301 | 23-1 | 23-8 | (7-1-24) | Approved by SCR 124 |
| 24-0601-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 24-0701-2301 | 23-1 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 24-1101-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 24-1301-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| ***24-1401-2301*** | ***23-12*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 450.02.a. by HCR 39*** |

## PENDING RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Fee Rule Docket Number | Bulletin Vol. No. Pending | Bulletin Vol. No. Proposed | Final Rule Effective Date | Action Taken |
|---|---|---|---|---|
| 24-1501-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 24-1601-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 24-1801-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 48 |
| 24-2701-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 39 |
| 24-2801-2301 | 23-11 | 23-8 | (7-1-24) | Approved by HCR 48 |
| 24-3101-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 24-3301-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 39 |
| 24-3501-2301 | 23-12 | 23-9 | (7-1-24) | Approved by SCR 126 |
| 24-3601-2301 | 24-1 | 23-12 | (7-1-24) | Approved by HCR 39 |
| 24-3801-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 41 |
| ***24-3910-2302*** | ***23-12*** | ***23-10*** | ***Null and Void*** | ***No Action Taken, Rulemaking Not Approved*** |
| 24-3930-2302 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| 24-3931-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 48 |
| ***24-3950-2301*** | ***23-12*** | ***23-9*** | ***(7-1-24)*** | ***Partial Rejection: 100.03.d. by HCR 48*** |
| 24-4001-2301 | 23-11 | 23-9 | (7-1-24) | Approved by HCR 39 |
| 26-0110-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 126 |
| ***26-0120-2301*** | ***23-12*** | ***23-10*** | ***(7-1-24)*** | ***Partial Rejection: 225.07, 245, 247, 250, 254, 256, 276 by SCR 126*** |
| 26-0134-2201 | 23-12 | 23-8 | (7-1-24) | Approved by SCR 126 |
| 29-0101-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 41 |
| 31-1201-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 52 |
| 31-2101-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 52 |
| 31-2601-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 52 |
| 31-3101-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 52 |
| 32-0101-2301 | 24-1 | 23-11 | (7-1-24) | Approved by HCR 52 |
| 35-0101-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 33 |
| 35-0101-2302 | 24-1 | 23-11 | (7-1-24) | Approved by HCR 33 |
| 35-0102-2301 | 24-1 | 23-11 | (7-1-24) | Approved by HCR 33 |
| 35-0103-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 33 |
| 35-0108-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 33 |
| ***36-0101-2301*** | ***24-1*** | ***23-11*** | ***(7-1-24)*** | ***Partial Rejection: 020, 021, 036 by HCR 47*** |

## PENDING RULES
### AFFECTED BY THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE

| Fee Rule Docket Number | Bulletin Vol. No. Pending | Bulletin Vol. No. Proposed | Final Rule Effective Date | Action Taken |
|---|---|---|---|---|
| 37-0308-2301 | 24-1 | 23-10 | (7-1-24) | Approved by SCR 126 |
| 39-0204-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0222-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0242-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0246-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0260-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0276-2301 | 23-12 | 23-7 | (7-1-24) | Approved by SCR 120 |
| 39-0301-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0302-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0303-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0304-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0305-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0306-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0307-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0308-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0340-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0342-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0348-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 119 |
| 39-0350-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 39-0401-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 120 |
| 50-0101-2301 | 24-1 | 23-11 | (7-1-24) | Approved by HCR 42 |
| ***52-0103-2301*** | ***24-1*** | ***23-12*** | ***Null and Void*** | ***No Action Taken, Rulemaking Not Approved*** |
| 55-0103-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 121 |
| 55-0104-2301 | 23-12 | 23-10 | (7-1-24) | Approved by SCR 121 |
| 58-0101-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 44 |
| 58-0107-2301 | 23-12 | 23-8 | (7-1-24) | Approved by HCR 44 |
| 58-0108-2301 | 23-12 | 23-9 | (7-1-24) | Approved by HCR 44 |
| 58-0125-2301 | 23-12 | 23-9 | (7-1-24) | Approved by SCR 125 |
| 59-0101-2301 | 24-1 | 23-11 | (7-1-24) | Approved by SCR 129 |
| 59-0201-2301 | 24-1 | 23-11 | (7-1-24) | Approved by SCR 129 |
| 62-0101-2301 | 23-12 | 23-10 | (7-1-24) | Approved by HCR 42 |

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this corrected notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 2024.

Brad Hunt
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# OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
# IDAHO DIVISION OF FINANCIAL MANAGEMENT

## CORRECTED HISTORY NOTES INDEX OF ADMINISTRATIVE RULES REVIEWED AND APPROVED AS FINAL AND EFFECTIVE DURING THE 2024 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH LEGISLATURE OF THE STATE OF IDAHO

The corrected table published herein lists all pending rulemakings that were reviewed during the 2024 legislative session and shows the individual rule sections that were affected by these rulemakings. The table includes the docket number of each affected chapter, the section numbers of the amended rule, the Bulletin publication volume numbers, and the final effective date of the rule.

If the rule was approved or rejected in whole or in part by concurrent resolution, the resolution number is listed. If a section or subsection of the pending rule, or a final rule, was rejected by concurrent resolution, the affected section(s) or subpart(s) is listed as rejected. The rejection of an amended section (pending rule) means the previously codified rule remains unchanged.

The effective date for pending (fee and non-fee) rules reviewed and approved by the 2024 Idaho Legislature is July 1, 2024, (7-1-24), unless otherwise specified in the pending rule. All pending rules rejected by Concurrent Resolution are null and void and of no force and effect. Any pending (fee or non-fee) rule that is not approved by a concurrent resolution shall expire upon adjournment *sine die* of the legislative session during which the agency submits the pending rule to the legislature for review.

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 02 – DEPARTMENT OF AGRICULTURE** | | | | |
| ***02.02.13, Commodity Dealers' Rules*** | | | | |
| 02-0213-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.02.14, Rules for Weights and Measures*** | | | | |
| 02-0214-2301 | 004 – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.02.15, Rules Governing the Seed Indemnity Fund*** | | | | |
| 02-0215-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.03.03, Rules Governing Pesticide and Chemigation Use and Application*** | | | | |
| 02-0303-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.04.14, Rules Governing Dairy Byproduct*** | | | | |
| 02-0414-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities*** | | | | |
| 02-0423-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.04.30, Rules Governing Environmental and Nutrient Management*** | | | | |
| 02-0430-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.04.32, Rules Governing Poultry Operations*** | | | | |
| 02-0432-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.01, Rules Governing the Production and Distribution of Seed*** | | | | |
| 02-0601-2301 | 190-192 – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.02, Rules Governing Registrations and Licenses*** | | | | |
| 02-0602-2301 | 104, 404, 504 – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.04, Rules Governing Plant Exports*** | | | | |
| 02-0604-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.09, Rules Governing Invasive Species and Noxious Weeds*** | | | | |
| 02-0609-2301 | 130, 146, 147, 220 – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.10, Rules Governing the Growing of Potatoes*** | | | | |
| 02-0610-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.16, Rules Governing Honey Standards*** | | | | |
| 02-0616-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |
| ***02.06.33, Organic Food Products Rules*** | | | | |
| 02-0633-2301 | 004 – Approved by HCR 41 | 23-10 | 24-1 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS** | | | | |
| ***05.01.02, Rules and Standards for Secure Juvenile Detention Centers*** | | | | |
| 05-0102-2301 | ZBR Chapter Repeal – Approved by HCR 42 | 23-10 | 24-1 | (7-1-24) |
| ***05.01.04, Rules Governing County Juvenile Probation and Detention Services*** | | | | |
| 05-0104-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 42 | 23-10 | 24-1 | (7-1-24) |
| ***05.02.01, Rules for Residential Treatment Providers*** | | | | |
| 05-0201-2301 | ZBR Chapter Repeal – *Rejected by HCR 43* | 23-10 | 24-1 | Null and Void |
| **IDAPA 08 – STATE BOARD OF EDUCATION** | | | | |
| ***08.01.02, Rules Governing the Postsecondary Credit Scholarship Program*** | | | | |
| 08-0102-2301 | Chapter Repeal – Approved by SCR 121 | 23-10 | 23-12 | (7-1-24) |
| ***08.01.13, Rules Governing the Opportunity Scholarship Program*** | | | | |
| 08-0113-2302 | 000, 101-302 – Approved by SCR 121 | 23-10 | 23-12 | (7-1-24) |
| ***08.02.03, Rules Governing Thoroughness*** | | | | |
| 08-0203-2301 | 112 – Approved by SCR 121 | 23-10 | 23-12 | (7-1-24) |
| ***08.04.01, Rules of the Idaho Digital Learning Academy*** | | | | |
| 08-0401-2301 | ZBR Chapter Rewrite (000-999)<br>*No Action Taken, Rulemaking Not Approved* | 23-10 | 23-12 | Null and Void |
| **IDAPA 11 – IDAHO STATE POLICE** | | | | |
| ***11.07.01, Rules Governing Motor Vehicles – General Rules*** | | | | |
| 11-0701-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 42 | 23-9 | 23-12 | (7-1-24) |
| ***11.07.03, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles*** | | | | |
| 11-0703-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 42 | 23-9 | 23-12 | (7-1-24) |
| ***11.10.01, Rules Governing Idaho Public Safety and Security Information System*** | | | | |
| 11-1001-2301 | 018 – Approved by HCR 42 | 23-9 | 23-12 | (7-1-24) |
| ***11.13.01, The Motor Carrier Rules*** | | | | |
| 11-1301-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsection 019.01.b., only, rejected by SCR 120* | 23-9 | 23-12 | (7-1-24) |
| **IDAPA 11.04 – Racing Commission** | | | | |
| ***11.04.01, Rules Governing the Idaho State Racing Commission*** | | | | |
| 11-0401-2301 | New Chapter (000-999) – Approved by HCR 52 | 23-5 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 11.02 – State Brand Board** | | | | |
| ***11.02.01, Rules of the Idaho State Brand Board*** | | | | |
| 11-0201-2301 | 034 – Approved by HCR 41 | 23-10 | 23-12 | (7-1-24) |
| **IDAPA 12 – DEPARTMENT OF FINANCE** | | | | |
| ***12.01.04, Rules Pursuant to the Idaho Credit Union Act*** | | | | |
| 12-0104-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-10 | 24-1 | (7-1-24) |
| ***12.01.08, Rules Pursuant to the Uniform Securities Act (2004)*** | | | | |
| 12-0108-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-10 | 24-1 | (7-1-24) |
| ***12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act*** | | | | |
| 12-0110-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-10 | 24-1 | (7-1-24) |
| **IDAPA 13 – DEPARTMENT OF FISH AND GAME** | | | | |
| ***13.01.04, Rules Governing Licensing*** | | | | |
| 13-0104-2301 | 500 – Approved by SCR 126 | 23-9 | 24-1 | (7-1-24) |
| ***13.01.06, Rules Governing Classification and Protection of Wildlife*** | | | | |
| 13-0106-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| ***13.01.08, Rules Governing Taking of Big Game Animals*** | | | | |
| 13-0108-2301 | 406 – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| ***13.01.11, Rules Governing Fish*** | | | | |
| 13-0111-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| ***13.01.12, Rules Governing Commercial Fishing*** | | | | |
| 13-0112-2301 | ZBR Chapter Repeal – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| ***13.01.15, Rules Governing the Use of Dogs*** | | | | |
| 13-0115-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| **IDAPA 15 – OFFICE OF THE GOVERNOR** | | | | |
| **IDAPA 15.04 – Division of Human Resources & Personnel Commission** | | | | |
| ***15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission*** | | | | |
| 15-0401-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 129 | 23-10 | 23-12 | (7-1-24) |

# *History Notes of Sections Affected – Legislative Session 2024*

| *Chapter and Docket Number* | *Sections Affected* | *Bulletin Vol. Proposed Rule* | *Bulletin Vol. Pending Rule* | *Final Effective Date* |
|---|---|---|---|---|
| **IDAPA 15.10 – Idaho State Liquor Division** | | | | |
| ***15.10.01, Rules of the Idaho State Liquor Division*** | | | | |
| 15-1001-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsection 021.09, only, rejected by HCR 52* | 23-10 | 24-1 | (7-1-24) |
| **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE** | | | | |
| ***16.01.02, Emergency Medical Services (EMS) – Rule Definitions*** | | | | |
| 16-0102-2301 | 000-013 – Approved by HCR 39 | 23-8 | 24-1 | (7-1-24) |
| ***16.01.03, Emergency Medical Services (EMS) – Agency Licensing Requirements*** | | | | |
| 16-0103-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 24-1 | (7-1-24) |
| ***16.02.02, Idaho Emergency Medical Services (EMS) Physician Commission*** | | | | |
| 16-0202-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-9 | 24-1 | (7-1-24) |
| ***16.02.06, Quality Assurance for Clinical Laboratories*** | | | | |
| 16-0206-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 24-1 | (7-1-24) |
| ***16.02.24, Clandestine Drug Laboratory Cleanup*** | | | | |
| 16-0224-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-12 | (7-1-24) |
| ***16.02.25, State Laboratory Fees*** | | | | |
| 16-0225-2301 | 200 – Approved by HCR 39 | 23-7 | 23-12 | (7-1-24) |
| ***16.03.01, Eligibility for Health Care Assistance for Families and Children*** | | | | |
| 16-0301-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-9 | 23-12 | (7-1-24) |
| ***16.03.02, Skilled Nursing Facilities*** | | | | |
| 16-0302-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 128 | 23-9 | 24-1 | (7-1-24) |
| ***16.03.04, Idaho Food Stamp Program*** | | | | |
| 16-0304-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-9 | 24-1 | (7-1-24) |
| ***16.03.05, Eligibility for Aid to the Aged, Blind, and Disabled (AABD)*** | | | | |
| 16-0305-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-10 | 24-1 | (7-1-24) |
| ***16.03.06, Refugee Medical Assistance*** | | | | |
| 16-0306-2301 | 150 – Approved by HCR 39 | 23-9 | 23-12 | (7-1-24) |
| ***16.03.09, Medicaid Basic Plan Benefits*** | | | | |
| 16-0309-2301 | 004-009, 011-100, 210, 230, 235, 455, 511-514, 524, 549, 573, 602, 640-642, 644, 709, 723, 732, 733, 753, 850, 853, 855, 892, 894 – Approved by HCR 39 | 23-7 | 23-12 | (7-1-24) |

## History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| ***16.03.10, Medicaid Enhanced Plan Benefits*** | | | | |
| 16-0310-2101 | 004-010, 093, 200, 300, 304, 305, 308, 314, 317, 320, 326, 328, 329, 350, 506, 508, 511, 513-515, 645, 648, 651, 655, 658-702, 704, 705, 727, 728 – Approved by HCR 39 | 23-10 | 24-1 | (7-1-24) |
| ***16.03.13, Consumer-Directed Services*** | | | | |
| 16-0313-2101 | 009, 135, 190, 302, 310 – Approved by HCR 39 | 23-10 | 24-1 | (7-1-24) |
| ***16.03.18, Medicaid Cost-Sharing*** | | | | |
| 16-0318-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-10 | 24-1 | (7-1-24) |
| ***16.03.22, Residential Assisted Living Facilities*** | | | | |
| 16-0322-2301 | 110, 215, 930 – Approved by HCR 39 | 23-7 | 24-1 | (7-1-24) |
| ***16.04.18, Children's Agencies and Residential Licensing*** | | | | |
| 16-0418-2301 | 000-100, 102, 106, 108 – Approved by HCR 39 | 23-5 | 24-1 | (7-1-24) |
| ***16.06.01, Child and Family Services*** | | | | |
| 16-0601-2301 | 011, 012, 405, 701 – *Rejected by HCR 39* | 23-7 | 24-1 | Null and Void |
| ***16.06.02, Foster Care Licensing*** | | | | |
| 16-0602-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsection 402.02, only, rejected by HCR 39* | 23-8 | 24-1 | (7-1-24) |
| ***16.06.03, Daycare Licensing*** | | | | |
| 16-0603-2301 | New Chapter (000-999) – Approved by HCR 39 | 23-8 | 24-1 | (7-1-24) |
| ***16.07.19, Peer Support Specialist and Family Support Partner Certification*** | | | | |
| 16-0719-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-12 | (7-1-24) |
| ***16.07.25, Prevention of Minors' Access to Tobacco or Electronic Smoking Device Products*** | | | | |
| 16-0725-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-12 | (7-1-24) |
| ***16.07.39, Designated Examiners and Dispositioners*** | | | | |
| 16-0739-2301 | 001-700 – Approved by HCR 39 | 23-10 | 24-1 | (7-1-24) |

## IDAPA 17 – INDUSTRIAL COMMISSION

| | | | | |
|---|---|---|---|---|
| ***17.10.01, Administrative Rules Under the Crime Victims Compensation Act*** | | | | |
| 17-1001-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsections 011.07 and 013.02, only, rejected by SCR 129* | 23-9 | 23-11 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 18 – DEPARTMENT OF INSURANCE** | | | | |
| ***18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges*** | | | | |
| 18-0102-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.04.04, The Managed Care Reform Act Rule*** | | | | |
| 18-0404-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsection 011.03, only, rejected by HCR 48* | 23-9 | 23-12 | (7-1-24) |
| ***18.04.08, Individual and Group Supplementary Disability Insurance Minimum Standards Rule*** | | | | |
| 18-0408-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.06.01, Rules Pertaining to Bail Agents*** | | | | |
| 18-0601-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.06.02, Producers Handling of Fiduciary Funds*** | | | | |
| 18-0602-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.06.03, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees*** | | | | |
| 18-0603-2301 | ZBR Chapter Repeal – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.07.06, Life and Health Reinsurance Agreements*** | | | | |
| 18-0706-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.07.10, Corporate Governance Annual Disclosure*** | | | | |
| 18-0710-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***18.08.01, Adoption of the International Fire Code*** | | | | |
| 18-0801-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| **IDAPA – 20 DEPARTMENT OF LANDS** | | | | |
| ***20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners*** | | | | |
| 20-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-8 | 24-1 | (7-1-24) |
| ***20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho*** | | | | |
| 20-0301-2301 | ZBR Chapter Rewrite (000-999) *Pending Rule Subsection 051.01, only, rejected by HCR 49* | 23-9 | 24-1 | (7-1-24) |
| ***20.03.03, Rules Governing Administration of the Reclamation Fund*** | | | | |
| 20-0303-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-9 | 24-1 | (7-1-24) |
| ***20.03.05, Navigable Waterways Mineral Leasing in Idaho*** | | | | |
| 20-0305-2301 | ZBR Chapter Rewrite (000-999) Approved by SCR 126 | 23-9 | 24-1 | (7-1-24) |
| ***20.05.01, Rules Pertaining to the Recreational Use of Endowment Land*** | | | | |
| 20-0501-2301 | New Chapter (000-999) – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 21 – DIVISION OF VETERANS SERVICES** | | | | |
| ***21.01.04, Rules Governing Idaho State Veterans Cemeteries*** | | | | |
| 21-0104-2301 | 000, 002-010, 024, 040<br>*No Action Taken, Rulemaking Not Approved* | 23-3 | 23-11 | Null and Void |
| **IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES** | | | | |
| ***24.01.01, Rules of the Board of Architects and Landscape Architects*** | | | | |
| 24-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-8 | 23-11 | (7-1-24) |
| ***24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals*** | | | | |
| 24-0501-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 124 | 23-8 | 23-1 | (7-1-24) |
| ***24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants*** | | | | |
| 24-0601-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.07.07, Rules of the Idaho State Board of Landscape Architects*** | | | | |
| 24-0701-2301 | ZBR Chapter Repeal –Approved by HCR 48 | 23-9 | 23-1 | (7-1-24) |
| ***24.11.01, Rules of the State Board of Podiatry*** | | | | |
| 24-1101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.13.01, Rules Governing the Physical Therapy Licensure Board*** | | | | |
| 24-1301-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.14.01, Rules of the State Board of Social Work Examiners*** | | | | |
| 24-1401-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule*<br>*Subsection 450.02.a., only, rejected by HCR 39* | 23-9 | 23-12 | (7-1-24) |
| ***24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*** | | | | |
| 24-1501-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.16.01, Rules of the State Board of Denturitry*** | | | | |
| 24-1601-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.18.01, Rules of the Real Estate Appraiser Board*** | | | | |
| 24-1801-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-10 | 23-12 | (7-1-24) |
| ***24.27.01, Rules of the Idaho State Board of Massage Therapy*** | | | | |
| 24-2701-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-8 | 23-11 | (7-1-24) |
| ***24.28.01, Rules of the Barber and Cosmetology Services Licensing Board*** | | | | |
| 24-2801-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-8 | 23-11 | (7-1-24) |
| ***24.31.01, Rules of the Idaho State Board of Dentistry*** | | | | |
| 24-3101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 39 | 23-9 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| ***24.33.01, Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho*** | | | | |
| 24-3301-2301 | 151, 243, 244 – Approved by HCR 39 | 23-10 | 23-12 | (7-1-24) |
| ***24.35.01, Rules of the Outfitters and Guides Licensing Board*** | | | | |
| 24-3501-2301 | 257, 259 – Approved by SCR 126 | 23-9 | 23-12 | (7-1-24) |
| ***24.36.01, Rules of the Idaho State Board of Pharmacy*** | | | | |
| 24-3601-2301 | 011, 301 – Approved by HCR 39 | 23-12 | 24-1 | (7-1-24) |
| ***24.38.01, Rules of the State of Idaho Board of Veterinary Medicine*** | | | | |
| 24-3801-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-9 | 23-12 | (7-1-24) |
| ***24.39.10, Rules of the Idaho Electrical Board*** | | | | |
| 24-3910-2302 | 100-200, 600 - *No Action Taken, Rulemaking Not Approved* | 23-10 | 23-12 | Null and Void |
| ***24.39.30, Rules of Building Safety (Building Code Rules)*** | | | | |
| 24-3930-2302 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***24.39.31, Rules for Factory Built Structures*** | | | | |
| 24-3931-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 48 | 23-9 | 23-12 | (7-1-24) |
| ***24.39.50, Rules of the Public Works Contractors License Board*** | | | | |
| 24-3950-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Subsection 100.03.d., only, rejected by HCR 48* | 23-9 | 23-12 | (7-1-24) |
| ***24.40.01, Rules for the Board of Naturopathic Health Care*** | | | | |
| 24-4001-2301 | New Chapter (000-999) – Approved by HCR 39 | 23-9 | 23-11 | (7-1-24) |

## IDAPA 26 – DEPARTMENT OF PARKS & RECREATION

| | | | | |
|---|---|---|---|---|
| ***26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation*** | | | | |
| 26-0110-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-10 | 23-12 | (7-1-24) |
| ***26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities*** | | | | |
| 26-0120-2301 | 000--075, 125-200, 225-276, 676 – *Pending Rule S(ubs)ections 225.07, 245, 247, 250, 254, 256, 276, only, rejected by SCR 126* | 23-10 | 23-12 | (7-1-24) |
| ***26.01.34, Idaho Protection Against Invasive Species Sticker Rules*** | | | | |
| 26-0134-2201 | ZBR Chapter Repeal – Approved by SCR 126 | 23-8 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 29 – IDAHO POTATO COMMISSION** | | | | |
| ***29.01.01, Rules of the Idaho Potato Commission*** | | | | |
| 29-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 41 | 23-9 | 23-12 | (7-1-24) |
| **IDAPA 31 – PUBLIC UTILITIES COMMISSION** | | | | |
| ***31.12.01, Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission*** | | | | |
| 31-1201-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 52 | 23-10 | 23-12 | (7-1-24) |
| ***31.21.01, Customer Relations Rules for Gas, Electric, and Water Public Utilities (The Utility Customer Relations Rules)*** | | | | |
| 31-2101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 52 | 23-10 | 23-12 | (7-1-24) |
| ***31.26.01, Master-Metering Rules for Electric Utilities*** | | | | |
| 31-2601-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 52 | 23-10 | 23-12 | (7-1-24) |
| ***31.31.01, Gas Service Rules*** | | | | |
| 31-3101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 52 | 23-10 | 23-12 | (7-1-24) |
| **IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD** | | | | |
| ***32.01.01, Rules Governing the Credit Enhancement Program for School Districts*** | | | | |
| 32-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 52 | 23-11 | 24-1 | (7-1-24) |
| **IDAPA 35 – STATE TAX COMMISSION** | | | | |
| ***35.01.01, Income Tax Administrative Rules*** | | | | |
| 35-0101-2301 | 700 – Approved by HCR 33 | 23-8 | 23-12 | (7-1-24) |
| 35-0101-2302 | 874 – Approved by HCR 33 | 23-11 | 24-1 | (7-1-24) |
| ***35.01.02, Idaho Sales and Use Tax Administrative Rules*** | | | | |
| 35-0102-2301 | 029 – Approved by HCR 33 | 23-11 | 24-1 | (7-1-24) |
| ***35.01.03, Property Tax Administrative Rules*** | | | | |
| 35-0103-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 33 | 23-9 | 23-12 | (7-1-24) |
| ***35.01.08, Mine License Tax Administrative Rules*** | | | | |
| 35-0108-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 33 | 23-8 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| **IDAPA 36 – IDAHO BOARD OF TAX APPEALS** | | | | |
| ***36.01.01, Idaho Board of Tax Appeals Rules*** | | | | |
| 36-0101-2301 | ZBR Chapter Rewrite (000-999) – *Pending Rule Sections 020, 021, 036, only, rejected by HCR 47* | 23-11 | 24-1 | (7-1-24) |
| **IDAPA 37 – DEPARTMENT OF WATER RESOURCES** | | | | |
| ***37.03.08, Water Appropriation Rules*** | | | | |
| 37-0308-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 126 | 23-10 | 24-1 | (7-1-24) |
| **IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT** | | | | |
| ***39.02.04, Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees*** | | | | |
| 39-0204-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.02.22, Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers*** | | | | |
| 39-0222-2301 | 010-101 – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.02.42, Rules Governing Conditional Vehicle Registration and Temporary Registration*** | | | | |
| 39-0242-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.02.46, Rules Governing Temporary Motor Vehicle Registration Permit*** | | | | |
| 39-0246-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.02.60, Rules Governing License Plate Provisions*** | | | | |
| 39-0260-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.02.76, Rules Governing Driver's License and Identification Card Renewal-By-Mail and Electronic Renewal and Replacement Processes*** | | | | |
| 39-0276-2301 | 001-012 – Approved by SCR 120 | 23-7 | 23-12 | (7-1-24) |
| ***39.03.01, Rules Governing Special Permits*** | | | | |
| 39-0301-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.02, Rules Governing Movement of Disabled Vehicles*** | | | | |
| 39-0302-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.03, Rules Governing Special Permits – General Conditions and Requirements*** | | | | |
| 39-0303-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.04, Rules Governing Special Permits – Overweight Non-Reducible*** | | | | |
| 39-0304-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| ***39.03.05, Rules Governing Special Permits – Oversize Non-Reducible*** | | | | |
| 39-0305-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.06, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations*** | | | | |
| 39-0306-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.07, Rules Governing Special Permits for Reducible Loads*** | | | | |
| 39-0307-2301 | ZBR Chapter Repeal – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.08, Rules Governing Self-Propelled Snowplows*** | | | | |
| 39-0308-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.40, Rules Governing Junkyards and Dumps*** | | | | |
| 39-0340-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.42, Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way*** | | | | |
| 39-0342-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.48, Rules Governing Routes Exempt From Local Plans and Ordinances*** | | | | |
| 39-0348-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 119 | 23-10 | 23-12 | (7-1-24) |
| ***39.03.50, Rules Governing Safety Rest Areas*** | | | | |
| 39-0350-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| ***39.04.01, Rules Governing Aeronautics and Aviation*** | | | | |
| 39-0401-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 120 | 23-10 | 23-12 | (7-1-24) |
| **IDAPA 50 – COMMISSION OF PARDONS AND PAROLE** | | | | |
| ***50.01.01, Rules of the Commission of Pardons and Parole*** | | | | |
| 50-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 42 | 23-11 | 24-1 | (7-1-24) |
| **IDAPA 52 – IDAHO STATE LOTTERY COMMISSION** | | | | |
| ***52.01.03, Rules Governing Operations of the Idaho State Lottery*** | | | | |
| 52-0103-2301 | 000-100, 202-204<br>*No Action Taken, Rulemaking Not Approved* | 23-12 | 24-1 | Null and Void |
| **IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION** | | | | |
| ***55.01.03, Rules of Career Technical Centers*** | | | | |
| 55-0103-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 121 | 23-10 | 23-12 | (7-1-24) |

# History Notes of Sections Affected – Legislative Session 2024

| Chapter and Docket Number | Sections Affected | Bulletin Vol. Proposed Rule | Bulletin Vol. Pending Rule | Final Effective Date |
|---|---|---|---|---|
| ***55.01.04, Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants*** | | | | |
| 55-0104-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 121 | 23-10 | 23-12 | (7-1-24) |

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

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| ***58.01.01, Rules for the Control of Air Pollution in Idaho*** | | | | |
| 58-0101-2301 | 107, 130 – Approved by HCR 44 | 23-9 | 23-12 | (7-1-24) |
| ***58.01.07, Rules Regulating Underground Storage Tank Systems*** | | | | |
| 58-0107-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 44 | 23-8 | 23-12 | (7-1-24) |
| ***58.01.08, Idaho Rules for Public Drinking Water Systems*** | | | | |
| 58-0108-2301 | ZBR Chapter Rewrite (000-999) – Approved by HCR 44 | 23-9 | 23-12 | (7-1-24) |
| ***58.01.25, Idaho Pollutant Discharge Elimination System Rules*** | | | | |
| 58-0125-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 125 | 23-9 | 23-12 | (7-1-24) |

## IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO - PERSI

| | | | | |
|---|---|---|---|---|
| ***59.01.01, Rules for the Public Employee Retirement System of Idaho (PERSI)*** | | | | |
| 59-0101-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 129 | 23-11 | 24-1 | (7-1-24) |
| ***59.02.01, Rules for the Judges' Retirement Fund*** | | | | |
| 59-0201-2301 | ZBR Chapter Rewrite (000-999) – Approved by SCR 129 | 23-11 | 24-1 | (7-1-24) |

## IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

| | | | | |
|---|---|---|---|---|
| ***62.01.01, Idaho Rules of Administrative Procedure*** | | | | |
| 62-0101-2301 | New Chapter (000-999) – Approved by HCR 42 | 23-10 | 23-12 | (7-1-24) |

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this corrected notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

# IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

## 05.02.01 – RULES FOR RESIDENTIAL TREATMENT PROVIDERS

## DOCKET NO. 05-0201-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 05-0201-2301. This chapter of rule affected by House Concurrent Resolution (HCR) 43 will remain codified as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the rejection:

Pursuant to **HCR 43**, IDAPA 05.02.01, "Rules for Residential Treatment Providers," the entire rulemaking docket adopted as a pending rule under Docket Number **05-0201-2301**, is not consistent with legislative intent and is rejected in whole and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was rejected in whole by HCR 43.**
**The existing rule text remains as the codified final rule.**

# IDAPA 11 – IDAHO STATE POLICE

## 11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL

## DOCKET NO. 11-0501-2403 (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 Section(s) 23-616, 23-932, 23-946(b), 23-1330, 23-1408 Idaho Code.

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

**Wednesday, September 18, 2024**
**10:00 a.m. - 12:00 p.m. MT**

**In Person:**
**Idaho State Police Headquarters**
**700 S Stratford Dr.**
**Meridian, ID 83642**
**(Meeting to be held in Building 9 Conference Room)**

**Join by meeting link**

**Join by meeting number**
**Meeting ID (access code): 235 833 562 39**
**Passcode: dgoreg**

**Join by phone**
**+1 872-215-6990,,98369856# United States, Chicago**
**Phone Conference ID: 983 698 56#**

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:

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.

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

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

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

There is no fiscal impact associated with 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 July 3, 2024 Idaho Administrative Bulletin, Volume 24-7, pages 72-73.

**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 Captain Rocky Gripton, Idaho State Police, (208) 884-7062, email – rocky.gripton@isp.idaho.gov Materials pertaining to the negotiated rulemaking can be found on the ISP Alcohol Beverage Control website at: https://isp.idaho.gov/abc/.

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 September 25, 2024.

DATED this 8th day of August, 2024.

Colonel Bill Gardiner, Director
Idaho State Police
700 S Stratford Drive
Meridian ID 83642 (208) 884-7004
Bill.gardiner@isp.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0501-2403**
**(ZBR Chapter Rewrite)**

## 11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL

**000. LEGAL AUTHORITY.**
~~The Director of the Idaho State Police has general rulemaking authority to prescribe rules and regulations for alcohol beverage enforcement, pursuant to~~ Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code. ~~(3-23-22)~~( )

**001. SCOPE.**
The rules relate to the governance and operation of Alcohol Beverage Control (hereafter, ABC). Unless a specific reference herein limits application of a rule to a particular kind of alcoholic beverage, these rules apply to and implement Idaho Code Sections for liquor (Title 23, Chapter 9, Idaho Code), beer (Title 23, Chapter 10, Idaho Code), and wine (Title 23, Chapter 13, Idaho Code). ~~(3-23-22)~~( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**
In addition to the applicable definitions found in Sections 23-902, 23-942, 23-1001, and 23-1303, Idaho Code, the following apply: ( )

**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 the premises on a weekly basis. ( )

**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, for purposes of Section 23-903, Idaho Code. ( )

~~**01. 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)~~

~~**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)~~

**03. Multipurpose Arena Facility**. For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena Facility is a 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)~~( )

~~**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)~~

~~c. 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)~~

**04.** **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. ( )

**0~~4~~5.** **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)~~

~~**05. 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)~~

~~**06. Restaurant**. The term Restaurant, as defined by Section 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, also includes that the licensee must show to the director the following:~~ ~~(3-23-22)~~

~~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%) of the establishment's consumable purchases are derived from purchases of food and non-alcoholic beverages.~~ ~~(3-23-22)~~

0~~7~~6. **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)

**07. 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), Idaho Code. ( )

## 011. GENERAL PROVISIONS.

**01. Delegation of Authority to License Alcoholic Beverages**. The Director hereby delegates his authority for ~~the~~ alcohol beverage licensing ~~of establishments which sell alcoholic beverages, as contained in~~ as defined 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.~~ ( pursuant to Section 67-2901(4), Idaho Code~~)~~. ~~(3-23-22)~~( )

**02. Restaurant Licensure Requirements**. In order to receive a license under these rules and Chapter 9, Title 23, a Restaurant must: ( )

**a.** Have a dining room, kitchen, and cooking facilities for the preparation of food; and ( )

**b.** Demonstrate to the satisfaction of the Director: ( )

i. An established menu identifying individually priced meals; ( )

ii. Food service and preparation occurs on the premises; ( )

iii. Stoves, ovens, refrigeration equipment or such other equipment commonly found in restaurants are located on the premises; and ( )

iv. 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. ( )

~~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**. ( )

**a.** In the event of loss or move of the physical licensed premises, or reversion under Section 23-903(17), Idaho Code, a 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. ( )

**b.** All licenses must be prominently displayed in suitable premises and remain in Actual Use. ( )

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

**05. Controlled Access to Minors**. Access through any premises will be controlled to prevent minors from entering the place: ( )

**a.** Except for a one (1) room restaurant without a barrier or partition, rooms must be separated by a permanently fixed partition no less than six (6) feet in height; ( )

**b.** Exterior portions of a premises must be constructed in a manner that prevents loitering or access by a minor and must be in compliance with local ordinances; ( )

**c.** Partitions must be constructed of such material designed to prevent alcohol beverages from being passed over, under, or through the partition; and ( )

**d.** Approved by the Director. ( )

**06. Multipurpose Arena Facility Licensure Requirements**. A Multipurpose Arena Facility must renew the endorsement annually on the alcohol beverage license. To receive a multipurpose arena endorsement under these rules, the facility must: ( )

**a.** Prepare cooked food for purchase during events; and ( )

**b.** Submit with the application an operating/security plan to ABC and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or ABC determines that a change is necessary due to demonstrated problems or conditions not previously considered or addressed in the original plan. The plan must contain the following elements: ( )

i. How the licensee will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated; ( )

ii. The ratio of employees and security staff to the size of audiences at events where alcohol is being served or dispensed; ( )

iii. Training provided to staff who serve dispense, or supervise the service and consumption of alcohol; ( )

iv. The licensee's policy on the number of alcohol beverages that will be served to an individual patron during one (1) transaction; ( )

v. A list of event types to be held in the facility; and ( )

vi. Diagrams and designation of alcohol service areas for each event, category type, with identified areas to restrict minors. ( )

**c.** ABC may restrict the type of events at the facility at which beer, wine, and liquor by the drink may be served. ( )

**d.** ABC will consider the seating accommodations, dining, operational plans, and other amenities available at the facility prior to endorsement. ( )

**e.** Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to ABC and local law enforcement showing the date and time of any events where alcohol service is planned. The licensee must notify ABC and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned but was not included in the monthly schedule. ( )

**f.** When the facility ceases to meet the qualifications of the endorsement, Sections 23-943 and 23-945 Idaho Code, apply. The licensee shall advise ABC that facility no longer constitutes a Multipurpose Arena. ( )

**06. 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. ( )

**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)

**01. 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. ( )

**a.** The owner must give written notice to the agency fifteen (15) days prior to the termination of the license lease per Section 23-903(17), Idaho Code. ( )

**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. ( )

**02. 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. ( )

**03. Authorization to Transfer and Assignment of Privilege to Renew**. Any person applying to renew or transfer an liquor license alcohol beverage license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew or transfer, a written Authorization to Transfer and Assignment of Privilege to Renew Affidavit of Release of License form signed by the current licensee. (3-23-22)( )

**04. 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 must comply with pertinent all statutes and rules pertinent to the sale of alcoholic beverages. Any Ssanctions are the responsibility of the against such permit holder, whether civil, administrative, or criminal lies with the permittee, and. aAcceptance of the permit constitutes a waiver of any defenses by the permit holder based upon the fact that. tThe permit holder is not, technically, a licensee, and is not entitled to administrative due process. 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)( )

**05. 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)~~

~~**06. 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)~~

0~~7~~5. **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)

**06. 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. ( )

**013. PRIORITY LISTS.**

**01. Priority Lists for Incorporated City 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~~ and submit 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, each succeeding~~ The premises information is not required at the time of application. Completed applications, including required fees, ~~is~~ are placed ~~on the list~~ in the order received. ~~(3-23-22)~~( )

~~**02. Written Notification**. When an incorporated city 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 license is offered to the next applicant in priority. An applicant accepting the 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)~~

**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. 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. ( )

**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. ( )

**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. ( )

~~**03. Refusal to Accept Offer of License or Failure to Complete Application for License.** An applicant refusing a license offered under this rule or an applicant who fails to complete his application may have his name placed at the end of the priority list upon his request. Should the applicant holding first priority refuse or fail to accept the license or to complete the application within the time specified, the applicant will be dropped from the priority list, the deposit refunded, and the license offered to the applicant appearing next on the list. (3-23-22)~~

**03. Refusal to Accept Offer of License or Failure to Complete Application for License.** ( )

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

i. To remain on the priority list for an incorporated city license; ( )

ii. Proceed with the application for the resort city restaurant liquor license; or ( )

iii. Request a refund of the priority list fee. ( )

**b.** An applicant who declines a license offered under these rules or an applicant who is unable to meet the statutory requirements for licensing, or to complete the application may have their name placed at the end of the priority list upon request. ( )

**c.** An applicant holding first place on the priority list who fails to accept either license type or to complete the application within the time specified will be removed from the priority list, the fee shall be refunded, and the license offered to the applicant appearing next on the list. ( )

**04. Limitations on Liquor License 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 a~~n incorporated city liquor license~~ priority list may not execute an inter vivos transfer or assignment of his place on the priority list~~s~~. 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~~ Person for the original applicant on the waiting list. An attempt to assign inter vivos a place on ~~an incorporated city~~ a ~~liquor license~~ priority list shall result in the removal of the name of the applicant from the list~~s~~. An applicant, however, may assign his or her place on a~~n 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)~~

~~**014. CONDUCT OF LICENSED PREMISES.**~~

~~Upon request of an agent of the Director, a licensee, or anyone acting on his behalf, must produce any records required to be kept pursuant to Title 23, Chapters 9, 10, or 13, Idaho Code, and permit the agent of the Director or peace officer to examine them and permit an inspection of the licensee's premises. Upon request of a peace officer, a licensee, or anyone acting on his behalf, must permit an inspection of the licensee's premises. Any inspection performed pursuant to this rule must occur during the licensee's regular and usual business hours. The failure to~~

~~produce such records or to permit such inspection on the part of any licensee is a violation of this rule. A violation of this rule, federal or state law or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037 and 23-1331, Idaho Code.~~ ~~(3-23-22)~~

**01~~5~~4. -- 020. (RESERVED)**

**021. AGE RESTRICTION REQUIREMENTS.**

~~**01. Over/Under Clubs**. Minors cannot enter, remain or loiter in any licensed establishment that sells alcoholic beverages by the drink, or where drinking alcohol is the predominant activity, or where an environment is created in which drinking alcohol appears to be the predominant activity. This includes an establishment that provides entertainment and whose primary source of revenue comes from the sale of alcoholic beverages for consumption on the premises, or cover charges, or both.~~ ~~(3-23-22)~~

**02~~3~~1. Posting of Age Restriction Signs**. Sections 23-945 and 23-1026, Idaho Code, require every alcohol~~ic~~ beverage licensee to post an age restriction sign. Such sign must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under twenty-one (21) years of age prohibited by law." Such sign must be placed conspicuously over or on the door of each entrance to the licensed premises and be clearly visible from the exterior approached to such premises. ~~(3-23-22)~~( )

**03~~2~~. Counterfeit or Altered Age Documents**. If ~~alcoholic beverage~~ licensees~~,~~ or their employees~~, or agents~~ receive ~~age~~ identification documents which have been lost or voluntarily surrendered, they shall deliver the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found or voluntarily surrender~~s~~ed. When identification documents ~~that~~ are presented to a licensee or its employees and appear to be mutilated, altered or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement and/or refuse service. ~~(3-23-22)~~( )

**022. AGE RESTRICTION REQUIREMENTS FOR LICENSED MOVIE THEATERS - WHEN MINORS PERMITTED.**

~~**01. Minors Prohibited**. Persons under twenty one (21) years of age are prohibited from entering or being in any movie theater licensed to sell alcoholic beverages during the time alcohol is available for sale or consumption in the movie theater. Age restriction signs must be posted as outlined in Subsection 021.02 of these rules at all times alcoholic beverages are sold, served or consumed in the movie theater.~~ ~~(3-23-22)~~

**02~~3~~1. Minors Permitted**. Any person under twenty-one (21) years of age is permitted in a movie theater licensed to sell alcoholic beverages and no age restriction posting is required at any time when all alcohol is secured, locked up and not available for sale or consumption. Age restriction signs must be posted as outlined in Subsection 021.01 at all times in any place where alcoholic beverages are sold, served, or consumed in the movie theatre. ~~(3-23-22)~~( )

~~**03. Exemption**. Nothing in this rule applies to any movie theater that qualifies under Section 23-944(7), Idaho Code.~~ ~~(3-23-22)~~

**023. -- 999. (RESERVED)**

# IDAPA 11 – IDAHO STATE POLICE

## 11.13.01 – THE MOTOR CARRIER RULES

## DOCKET NO. 11-1301-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 11-1301-2301. Only that section of the rule effected by Senate Concurrent Resolution (SCR) 120 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **SCR 120**, IDAPA 11.13.01, "The Motor Carrier Rules," the amendment to Section 019, Subsection 01.b., only, adopted as a pending rule under Docket Number **11-1301-2301**, is not consistent with legislative intent because it is a critical exemption for motor carriers that needs to remain in place and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 019 is reprinted here as affected by SCR 120 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by SCR 120.
The following rule text is the final rule and includes the rejected
pending rule text shown here *codified as italicized*.**

**019. CARRIER SAFETY REQUIREMENT EXEMPTIONS.**

***01. Adoption of Federal Regulations - Exceptions.*** *(3-23-22)*

***[b]a.*** *Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172,*

*Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers).* *(3-23-22)*

**0*[1]2.*** **Intrastate Carriers**. Intrastate carriers subject to both the incorporated federal rules and the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (7-1-24)

# IDAPA 13 – IDAHO FISH AND GAME COMMISSION

## ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO

## DOCKET NO. 13-0000-2400P6

## 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 Administrative Bulletin, February 7, 2024, Bulletin Volume 24-2, pages 10-11.

At a August 15, 2024 special meeting the Commission took the following proclamation action:

1. Amended its July 24, 2024 proclamation by modifying the 2025 and 2026 total nonresident limits and 2025 nonresident non-outfitted tag limits.

2. Amended its 2024 big game proclamation by adding a chronic wasting disease surveillance hunt in Unit 1 in response to discovery of the disease in that portion of the State. This surveillance hunt will be conducted with the goal of collecting additional samples to better understand disease prevalence and distribution.

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

# IDAPA 15 – OFFICE OF THE GOVERNOR
# IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

## 15.02.30 – BUSINESS ENTERPRISE PROGRAM

## DOCKET NO. 15-0230-2401 (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 67-5407(c)(e) and 67-5408 Idaho Code.

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

**Thursday, September 12, 2024**
**1:00 p.m. to 3:00 p.m. (MT)**

***In-person participation is available at:***
**Idaho Commission for the Blind and Visually Impaired**
**341 W. Washington, 2nd Floor Conference Room**
**Boise, ID 83702**

***Web meeting link:***
**Join the meeting now**
***Meeting ID: 237 539 105 993***
**Passcode: 4zMX93**
**Download Teams | Join on the web**

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/or web conferencing. Individuals interested in participating can visit 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:

This rulemaking is in compliance with Executive Order 2020-01: Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. The goal of the rulemaking is to perform a critical and comprehensive

review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

**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 Mike Walsh at 208-334-3220. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Commission website at the following web address: https://icbvi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 12, 2024.

DATED this 15th day of August, 2024.

Mike Walsh, PhD, CRC
Rehabilitation Services Chief
Idaho Commission for the Blind and Visually Impaired
341 W. Washington St.
Boise, ID 83702
Email: mikew@ics.idaho.gov
Website: https://icbvi.idaho.gov
Phone: 208-334-3220

# IDAPA 15 – OFFICE OF THE GOVERNOR
# IDAHO STATE LIQUOR DIVISION

## 15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION

## DOCKET NO. 15-1001-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 15-1001-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 52 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 52**, IDAPA 15.10.01, "Rules of the Idaho State Liquor Division," the amendment to Section 021, Subsection 09, only, adopted as a pending rule under Docket Number **15-1001-2301**, is not consistent with legislative intent because the Division does not have authority to increase the amount of wine gallons available to sample and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 021 is reprinted here as affected by HCR 52 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 52.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

**021. SUPPLIERS.**

**01. Obligations**. Suppliers will conform to the requirements of the Tax and Trade Bureau of the U.S. Department of Treasury. (7-1-24)

**02. Liquor Shipments**. Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all Liquor transported into the state of Idaho is under the direction of the Division. (7-1-24)

**a.** It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director. (7-1-24)

**b.** The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. (7-1-24)

**03. Title to Liquor, Wines and Related Products**. Title to Product Line items passes from the Supplier to the Division when the product is accepted, unless Product Line items are delivered directly to Bailment status. (7-1-24)

**a.** The Division reserves the right to conduct quality tests or inspect products. (7-1-24)

**b.** The Division reserves the right to reject any Product Line item that does not conform to requirements. (7-1-24)

**c.** In the event the Division rejects any delivery, ownership remains with the Supplier. It is the Supplier's responsibility to remove or relocate any refused products. (7-1-24)

**04. Product Returns**. Product Line Items may be returned to Suppliers by the Division in accordance with the Tax and Trade Bureau of the U.S. Department of Treasury regulations. (7-1-24)

**05. New Listings**. New Listings will be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (7-1-24)

**06. Delisting**. Delistings are at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (7-1-24)

**07. Resident Supplier Representatives**. All Suppliers doing business with the Division will have resident representation. A resident Supplier Representative cannot have been convicted of any felony. (7-1-24)

**08. Supplier Representative Permits**. Supplier Representatives will obtain a permit from the Division to conduct business at any State Store or Distributing Station. (7-1-24)

**a.** Permits will not be issued to any retail licensee or a distributor of beer or Wine. (7-1-24)

**b.** Supplier Representatives may represent more than one (1) Supplier without additional permit fees. (7-1-24)

**09. Samples**. Samples are limited to ten ~~*twenty*~~ (1~~2~~0) Wine Gallons per month and the sizes of Samples are that which are permitted by federal regulation or statute. (3-25-22)

**10. Promotional Samples**. Promotional Samples are limited to fifty (50) ml size bottles unless specified otherwise by the Director. (7-1-24)

**11. Contact With Licensees**. No Supplier Representative, or anyone acting in that capacity, will deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples of items that are not carried in that Licensee's Product Line. (7-1-24)

**12. Liquor Displays**. The Division regulates all Retail Store Liquor displays. (7-1-24)

**13. Violations**. Any Supplier Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, may subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their Supplier Representative permit. (7-1-24)

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.01.01 – EMERGENCY MEDICAL SERVICES

## DOCKET NO. 16-0101-2401 (NEW CHAPTER)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003 and 56-1011 through 56-1030, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Thursday, September 19, 2024**<br>**10:00 a.m. (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=m7de9a7fc693b06f80698ba5191f190b9**<br><br>**Join by meeting number**<br>**Meeting number (access code): 2828 383 0931**<br>**Meeting password: m52kCv3pMdM (65252837 when dialing from a phone or video system)**<br><br>**Tap to join from a mobile device (attendees only)**<br>**+1-415-527-5035,,28283830931#65252837# United States Toll**<br>**+1-303-498-7536,,28283830931#65252837# United States Toll (Denver)**<br>**Some mobile devices may ask attendees to enter a numeric password**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)**<br>**Global call-in numbers** |

**VIRTUAL TELECONFERENCE Via WebEx**

**Tuesday, September 24, 2024**
**6:30 p.m. (MT)**

**Join from the meeting link**
**https://idhw.webex.com/idhw/j.php?MTID=m89d9401ca99d899d95fab8e7651a36f7**

**Join by meeting number**
**Meeting number (access code): 2822 377 4080**
**Meeting password: uMCx3MZaJ43 (86293692 when dialing from a phone or video system)**

**Tap to join from a mobile device (attendees only)**
**+1-415-527-5035,,28223774080#86293692# United States Toll**
**+1-303-498-7536,,28223774080#86293692# United States Toll (Denver)**
**Some mobile devices may ask attendees to enter a numeric password**

**Join by phone**
**+1-415-527-5035 United States Toll**
**+1-303-498-7536 United States Toll (Denver)**
**Global call-in numbers**

**Join from a video system or application**
**Dial 28223774080@idhw.webex.com**

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:

Chapters 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01 and 16.02.02 are being repealed and consolidated into a singular EMS chapter (16.01.01) that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of Zero-Based Regulation and is included in the proposed new chapter 16.01.01.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02, 16.01.03, 16.01.05, 16.01.12, 16.02.01 and 16.02.02 because

those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18 and April 23, 2024. Negotiated Rulemaking for chapter 16.01.07 was published in the April 3, 2024, Idaho Administrative Bulletin, Volume 24-4, pages 20 through 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:

The following documents are incorporated by reference into the proposed new chapter. All incorporated documents were previously incorporated by reference in the rule chapters that are being repealed by this rulemaking. No changes are being made to any incorporated documents in this rulemaking.

1. EMS Agency Standards Manual, Edition 2024-1
2. EMS Data Collection Standards Manual, Edition 2023-1
3. Idaho EMS Education Equipment Standards, Edition 2016-1
4. Idaho EMS Education Standards Manual, Edition 2022-1
5. Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, Edition 2020-1
6. Minimum Equipment Standards for Licensed EMS Services, Edition 2016-1
7. Time Sensitive Emergency Standards Manual, Edition 2023-1

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0101-2401**
**(NEW CHAPTER)**

## 16.01.01 – EMERGENCY MEDICAL SERVICES

**000. LEGAL AUTHORITY.**
The EMS Bureau is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1030, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical services program. ( )

**001. INCORPORATION BY REFERENCE.**
The following documents are incorporated by reference: ( )

**01. EMS Agency Standards Manual**, Edition 2024-1, hereafter referred to as the EMS Agency

Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: EMS Agency Standards Manual 2024-1 (idaho.gov). ( )

**02.** **EMS Data Collection Standards Manual**, Edition 2023-1, hereafter referred to as the EMS Data Collection Standards, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: EMS Data Collection Standards Manual 2023 (idaho.gov). ( )

**03.** **Idaho EMS Education Equipment Standards**, Edition 2016-1, hereafter referred to as the EMS Education Equipment Standards, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: EducationEquipmentStandards2016 (idaho.gov). ( )

**04.** **Idaho EMS Education Standards Manual**, Edition 2022-1, hereafter referred to as the EMS Education Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: IdahoEMSEducationStandards. ( )

**05.** **Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual**, Edition 2020-1. hereafter referred to as the EMSPC Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: EMSPC_StandardsManual2020-1 (idaho.gov). ( )

**06.** **Minimum Equipment Standards for Licensed EMS Services**, Edition 2016-1, hereafter referred to as the EMS Agency Equipment Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at: EMS_Minimum_Equipment_Standards_for_Licensed_EMS_Service (idaho.gov). ( )

**07.** **Time Sensitive Emergency Standards Manual**, Edition 2023-1, hereafter referred to as the TSE Standards Manual, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at https://tse.idaho.gov/. ( )

**002. ADMINISTRATIVE LICENSE OR CERTIFICATION ACTION.**
Any license, designation or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license, designation or certification actions, including fines, imposed by the EMS Bureau for any action, conduct, or failure to act that is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1030, Idaho Code, and these rules. ( )

**003. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**
Individuals applying for any of the following must successfully pass a criminal history background check: ( )

**01.** **Initial Instructor Certification**. ( )

**02.** **Initial Personnel Licensure**. ( )

**03.** **Reinstatement of Personnel Licensure**. ( )

**04.** **Certificate of Eligibility**. ( )

**004. ADDITIONAL CRIMINAL BACKGROUND CHECK.**
The EMS Bureau may require an updated or additional criminal background check at any time, without expense to the candidate, if there is cause to believe new or additional information will be disclosed. ( )

## SUBPART A – DEFINITIONS
## (Sections 005 - 099)

**005. DEFINITIONS AND ABBREVIATIONS A THROUGH B.**
For the purposes of this chapter, the following definitions apply: ( )

**01.** **911 Call**. Any request for emergency services that is received or dispatched by a CECS or PSAP, regardless of the method the request was received. ( )

**02. Advanced Emergency Medical Technician (AEMT)**. An AEMT is a person who: ( )

**a.** Has met the qualifications for licensure under Sections 56-1011 through 56-1023, Idaho Code, and these rules; ( )

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

**c.** Carries out the practice of emergency medical care within the scope of practice for AEMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), and ( )

**d.** Practices under the supervision of a physician licensed in Idaho. ( )

**03. Advanced Life Support (ALS)**. The provision of medical care, medication administration and treatment with medical devices that correspond to the knowledge and skill objectives in the Paramedic curriculum currently approved by the State Health Officer and within the scope of practice authorized by the EMSPC, by persons licensed as Paramedics by the EMS Bureau. ( )

**04. Advanced Practice Registered Nurse**. A person who meets the requirements and is licensed as an Advanced Practice Registered Nurse under Sections 54-1401 through 54-1418, Idaho Code. ( )

**05. Advertise**. Communication of information to the public, institutions, or to any person concerned, by any oral, written, graphic means including handbills, newspapers, television, radio, telephone directories, billboards, or electronic communication methods. ( )

**06. Affiliation**. The formal association that exists between an agency and licensed personnel who appear on the agency's roster, which includes active participation, collaboration, and involvement. Affiliation can be demonstrated by the credentialing of licensed personnel by the agency medical director. ( )

**07. Affiliating EMS Agency**. The licensed EMS agency(s) under which licensed personnel are authorized to provide patient care. ( )

**08. Air Ambulance**. Any privately or publicly owned fixed wing or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles that comply with Sections 56-1011 through 56-1023, Idaho Code, and these rules. ( )

**09. Air Medical Service**. An agency licensed by the EMS Bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing or rotary wing aircraft. ( )

**10. Air Medical Transport Service**. An air medical service type that licenses an agency to provide air medical reponse and transport of patients from an emergency scene, and hospital-to-hospital transfers of patients utilizing an air ambulance. ( )

**11. Air Medical Rescue Service**. An air medical service type that licenses an agency to provide air medical response and transport of patients from an emergency scene to a rendezvous with air medical transport or ground transport ambulance services. ( )

**12. Air Medical Response**. The deployment of an aircraft to respond to an emergency scene for the purpose of patient treatment and transportation. ( )

**13. Ambulance**. Any privately or publicly owned motor vehicle, or nautical vessel, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles that comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications under these rules. ( )

**14. Ambulance-Based Clinicians**. Registered Nurses and Advanced Practice Registered Nurses who

are licensed under Sections 54-1401 through 54-1418, Idaho Code, and Physician Assistants who are licensed under Sections 54-1801 through 54-1841, Idaho Code. ( )

**15. Ambulance Certification**. Designation issued by the EMS Bureau to a licensed EMR indicating that the EMR has completed ambulance certification training, examination, and credentialing as required by the EMS Bureau. The ambulance certification allows a licensed EMR to serve as the sole patient care provider in an ambulance during transport or transfer. ( )

**16. Ambulance Service**. An agency licensed by the EMS Bureau and operated with the intent to provide pe6sonnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. ( )

**17. Ambulance Service Type**. An agency that is licensed as an ambulance service is intended for patient transport or transfer. ( )

**18. Applicant**. Any organization that is requesting an agency license under Sections 56-1011 through 56-1023, Idaho Code, and these rules including the following: ( )

**a.** An organization seeking a new license; ( )

**b.** An existing agency that intends to: ( )

i. Change the level of licensed personnel it utilizes; ( )

ii. Change its geographic coverage area (except by agency annexation); or ( )

iii. Begin or discontinue providing patient transport services. ( )

**19. Basic Life Support (BLS)**. The provision of medical care, medication administration, and treatment with medical devices that correspond to the knowledge and skill objectives in the EMR or EMT curriculum currently approved by the State Health Officer and within scope of practice established by the EMSPC, by persons licensed as EMRs or EMTs by the EMS Bureau. ( )

**20. Board**. The Idaho Board of Health and Welfare. ( )

**006. DEFINITIONS AND ABBREVIATIONS C THROUGH E.**
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: ( )

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

**02. Candidate**. Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code, and these rules. ( )

**03. Certificate of Eligibility**. Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. ( )

**04. Certification**. A credential issued by a designated certification body for a specified period indicating that minimum standards have been met. ( )

**05. Certified EMS Instructor**. An individual approved by the EMS Bureau, who has met the requirements in these rules to provide EMS education and training. ( )

**06. CoAEMSP**. Committee on Accreditation of Educational Programs for the Emergency Medical

Services Professions. ( )

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

**08. Community Health EMS (CHEMS)**. The practice of deploying EMS personnel to provide evaluation, advice, or treatment of eligible recipients outside of a hospital setting as part of a community-based team of health and social services providers as authorized by local medical control. ( )

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

**10. Consolidated Emergency Communications System (CECS)**. An emergency communication system operated or coordinated by a government entity that is composed of facilities, equipment, and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service defined in Section 31-4802, Idaho Code. ( )

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

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

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

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

**15. Credentialing**. The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. ( )

**16. Critical Care**. The treatment of a patient with continuous care, monitoring, medication, or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice authorized by the EMSPC. ( )

**17. Critical Care Agency**. An ambulance or air medical EMS agency that advertises and provides all of the skills and interventions defined as critical care per the incorporated EMSPC Standards Manual. ( )

**18. Department**. The Idaho Department of Health and Welfare. ( )

**19. Designated Clinician**. A licensed Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician who is responsible for direct (on-line) medical supervision of licensed EMS personnel in the temporary absence of the EMS medical director. ( )

**20. Direct (On-Line) Supervision**. Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to licensed EMS personnel who are providing medical care. ( )

**21. Director**. The Director of the Department or their designee. ( )

**22. Division**. The Department's Division of Public Health. ( )

**23.** **Emergency**. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ( )

**24.** **Emergency Driving Procedures**. Any EMS response to an emergency utilizing emergency lights, sirens, and traffic exemptions under Section 49-623, Idaho Code. ( )

**25.** **Emergency Medical Care**. The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ( )

**26.** **Emergency Medical Responder (EMR)**. A person who: ( )

**a.** Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and these rules; ( )

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

**c.** Carries out the practice of emergency medical care within the scope of practice for EMR determined by the EMSPC; and ( )

**d.** Practices under the supervision of a physician licensed in Idaho. ( )

**27.** **Emergency Medical Services (EMS)**. Under Section 56-1012(16), Idaho Code, EMS is aid rendered by an individual or group of individuals who do the following: ( )

**a.** Respond to a perceived need for medical care to prevent loss of life, aggravation of physiological or psychological illness, or injury; ( )

**b.** Are prepared to provide interventions that are within the scope of practice as defined by the EMSPC. ( )

**c.** Use an alerting mechanism to initiate a response to requests for medical care; and ( )

**d.** Offer, advertise, or attempt to respond as described in these rules. ( )

**28.** **Emergency Medical Technician (EMT)**. A person who: ( )

**a.** Has met the qualifications under Sections 56-1011 through 56-1023, Idaho Code, and these rules; ( )

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

**c.** Carries out the practice of emergency medical care within the scope of practice for EMT determined by the EMSPC; and ( )

**d.** Practices under the supervision of a physician licensed in Idaho. ( )

**29.** **Emergency Response**. Any EMS response to an emergency utilizing emergency lights, sirens, and traffic exemptions under Section 49-623, Idaho Code. ( )

**30.** **Emergency Scene**. Any setting outside of a hospital, with the exception of the inter-facility

transfer, in which the provision of EMS may take place. ( )

**31. EMS Agency**. Any organization licensed under Sections 56-1011 through 56-1023, Idaho Code, and these rules that operates an air medical service, ambulance service, or non-transport service. ( )

**32. EMS Bureau**. The Bureau of Emergency Medical Services (EMS) and Preparedness. ( )

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

**34. EMS Education Program Director**. The individual responsible for an EMS education program(s). ( )

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

**36. EMS Medical Director**. A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. ( )

**37. EMS Physician Commission (EMSPC)**. The Idaho Emergency Medical Services Physician Commission created under Section 56-1013A, Idaho Code, also referred to as "EMSPC" or "the Commission." ( )

**38. EMS Response**. A response to a request for assistance that would involve the medical evaluation or treatment of a patient, or both. ( )

**007. DEFINITIONS AND ABBREVIATIONS F THROUGH N.**
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: ( )

**01. Facility**. A health care organization that is voluntarily seeking designation from the Idaho TSE Council. A facility may be any of the following: ( )

**a.** Center as designated by the Idaho TSE Council. ( )

**b.** Freestanding emergency department: ( )

i. Owned by a hospital with a dedicated emergency department; ( )

ii. Located within thirty-five (35) miles of the hospital that owns or controls it; ( )

iii. Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; ( )

iv. Physically separate from a hospital; and ( )

v. Meets the staffing and service requirements in IDAPA 16.03.14, "Hospitals." ( )

**c.** Hospital as defined in Section 39-1301, Idaho Code. ( )

**d.** A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and can provide emergency care to patients. ( )

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

**03. Glasgow Coma Score (GCS)**. A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open their eyes, respond verbally, and move normally.

The GCS is used primarily during the examination of patients with trauma or stroke. ( )

**04. Heart Attack**. STEMI, a common name for ST-elevation myocardial infarction, is a more precise definition for a type of heart attack caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death or disability calling for a quick response. ( )

**05. Hospital**. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. ( )

**06. Hospital Supervising Physician**. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a hospital. ( )

**07. Idaho Time Sensitive Emergency (TSE) System Council**. The Idaho TSE System Council established in Section 56-1027, Idaho Code. ( )

**08. Indirect (Off-Line) Supervision**. The medical supervision, provided by a physician, to licensed EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. ( )

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

**10. Instructor Certification**. A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards for providing EMS instruction under these rules have been met. ( )

**11. Intermediate Life Support (ILS)**. The provision of medical care, medication administration, and treatment with medical devices that correspond to the knowledge and skill objectives in the AEMT curriculum currently approved by the State Health Officer and within the scope of practice defined by the EMSPC, by persons licensed as AEMTs by the EMS Bureau. ( )

**12. Investigation**. Research of the facts concerning a complaint or issue of non-compliance that may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls, witness statements, other evidence, and collaboration with other jurisdictions of authority. ( )

**13. License**. A document issued by the EMS Bureau to an agency or individual authorizing specified activities and conditions under Sections 56-1011 through 56-1023, Idaho Code. ( )

**14. Licensed Personnel**. Those individuals who are licensed by the EMS Bureau as Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), and Paramedics. ( )

**15. Licensed Professional Nurse**. A person who meets all the applicable requirements and is licensed to practice as a Licensed Professional Nurse under Sections 54-1401 through 54-1418, Idaho Code. ( )

**16. Local Incident Management System**. The local system of interagency communications, command, and control, established to manage emergencies or demonstrate compliance with the National Incident Management System. ( )

**17. Medical Clinic**. A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. ( )

**18. Medical Clinic Supervising Physician**. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a medical clinic. ( )

**19. Medical Supervision**. The advice and direction provided by a physician, or under the direction of a physician, to licensed EMS personnel who are providing medical care, including direct and indirect supervision.

( )

**20. Medical Supervision Plan**. The written document describing the provisions for medical supervision of licensed EMS personnel. ( )

**21. National Accrediting Body**. An organization whose standards criteria is recognized by the Idaho TSE System Council and verifies compliance with those standards. ( )

**22. National Emergency Medical Services Information System (NEMSIS)**. The national repository used to store national EMS data that sets the uniform data conventions and structure for the Data Dictionary and collects and provides aggregate data available for analysis and research through its technical assistance center accessed at http://www.nemsis.org. ( )

**23. National Registry of Emergency Medical Technicians (NREMT)**. An independent, non-governmental, not-for-profit organization that prepares validated examinations for the state's use in evaluating candidates for licensure. ( )

**24. Non-Transport Service**. An EMS agency that provides emergency medical care, but does not transport patients and does not respond to 911 calls or respond to calls using emergency driving procedures unless requested by CECS, PSAP, or a 911 Response agency. ( )

**25. Non-Transport Service Type**. An agency that is licensed as a non-transport service type, is not intended for patient transport or transfers, and cannot advertise ambulance services. ( )

**26. Non-Transport Vehicle**. Any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons. ( )

**27. Nurse Practitioner**. An Advanced Practice Registered Nurse, licensed in the category of Nurse Practitioner, under IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." ( )

**008. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.**
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: ( )

**01. Optional Module (OM)**. Skills identified by the EMSPC that exceed the floor level Scope of Practice for EMS personnel and may be adopted by the agency medical director. ( )

**02. Out-of-Hospital**. Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. ( )

**03. Paramedic**. A person who: ( )

**a.** Has met the qualifications under Sections 56-1011 through 56-1023, Idaho Code, and of these rules; ( )

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

**c.** Carries out the practice of emergency medical care within the scope of practice for paramedics determined by the EMSPC; and ( )

**d.** Practices under the supervision of a physician licensed in Idaho. ( )

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

**05. Patient**. A sick, injured, incapacitated, or helpless person who is under medical care or treatment.

( )

**06. Patient Assessment**. The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. ( )

**07. Patient Care**. The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care to prevent loss of life, aggravation of physiological or psychological illness, or injury. ( )

**08. Patient Movement**. The relatively short distance transportation of a patient from an off-highway emergency scene to a rendezvous with an ambulance or air ambulance. ( )

**09. Patient Transport**. The transportation of a patient by ambulance or air ambulance from a rendezvous or emergency scene to a medical care facility. ( )

**10. Physician**. A person who holds a current active license under Section 54-1803, Idaho Code, issued by the Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine and is in good standing with no restrictions upon, or actions taken against, their license. ( )

**11. Physician Assistant**. A person who meets all the applicable requirements and is licensed to practice as a physician assistant under Title 54, Chapter 18, Idaho Code. ( )

**12. Planned Deployment**. The deliberate, planned placement of EMS personnel outside of an affiliating agency's deployment model declared on the application under which the agency is currently licensed. ( )

**13. Prehospital**. A setting where emergency medical care is provided prior to or during transport to a hospital. ( )

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

**15. Public Safety Answering Point (PSAP)**. An emergency communication center operated or coordinated by a government entity that is connected to local 911 phone services for the purpose of dispatching emergency services. ( )

**16. Regional Time Sensitive Emergency (TSE) Committee**. An Idaho regional TSE committee established under Section 56-1030, Idaho Code. ( )

**17. REPLICA**. The Recognition of EMS Personnel Licensure Interstate Compact that allows recognition of EMS personnel licensed in other jurisdictions that have enacted the compact to have personnel licenses reciprocated in the state of Idaho. ( )

**18. Response Time**. The total time elapsed from when the agency receives a call for service to when the agency arrives and is available at the scene. ( )

**19. Skills Proficiency**. The process overseen by an EMS agency medical director to verify competency in psychomotor skills. ( )

**20. Special Pathogens Transport (SPT)**. The practice of deploying specially trained EMS personnel and specialized equipment to provide medical care and transport of patients suffering from exposure or disease caused by highly infectious special pathogens. ( )

**21. State Health Officer**. The Administrator of the Department's Division of Public Health. ( )

**22. STEMI**. STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large

area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. ( )

**23.** **Stroke**. An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). ( )

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

**25.** **Supervision**. The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or non-transport service, including: ( )

**a.** Establishing standing orders and protocols; ( )

**b.** Reviewing performance of licensed personnel; ( )

**c.** Providing instructions for patient care via radio or telephone; and ( )

**d.** Other oversight. ( )

**26.** **Third Service**. A public EMS agency that is neither law-enforcement nor fire-department based. ( )

**27.** **Transfer**. The transportation of a patient from one (1) medical care facility to another. ( )

**28.** **Tactical EMS (TEMS)**. The practice of deploying specially trained EMS personnel to provide emergency medical care in support of law enforcement activities. ( )

**29.** **Time Sensitive Emergency (TSE)**. Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. ( )

**30.** **Transport Service**. An agency that provides emergency medical care during transports or transfers, but does not respond to 911 calls. Transport services only respond to calls using emergency driving procedures for emergency hospital-to-hospital transfers and when requested by CECS, PSAP, or a 911 Response agency. ( )

**31.** **Trauma**. The result of an act or event that damages, harms, or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. ( )

**32.** **TSE Designated Center**. A facility that has voluntarily applied for TSE designation, has met designation criteria, remains in compliance with the designation criteria of these rules, and that the TSE Council has designated as one (1) or more of the following: ( )

**a.** Level I Trauma Center; ( )

**b.** Level II Trauma Center; ( )

**c.** Level III Trauma Center; ( )

**d.** Level IV Trauma Center; ( )

**e.** Level V Trauma Center; ( )

**f.** Pediatric Level I Trauma Center; or ( )

**g.** Pediatric Level II Trauma Center; ( )

**h.** Level I Stroke Center (Comprehensive); ( )

**i.** Level II+ Stroke Center (Thrombectomy Capable); ( )

**j.** Level II Stroke Center (Primary); or ( )

**k.** Level III Stroke Center (Acute Stroke Ready); ( )

**l.** Level I+ STEMI Center (Cardiogenic Shock Capable); ( )

**m.** Level I STEMI Center (Heart Attack Receiving); or ( )

**n.** Level II STEMI Center (Heart Attack Referring). ( )

**33. TSE Registry**. The population-based data system defined under Section 57-2003, Idaho Code. ( )

**34. TSE System**. An organized statewide approach to treating trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. ( )

**009. – 099. (RESERVED)**

## SUBPART B – AGENCY LICENSING REQUIREMENTS (Sections 100 - 299)

### SUBAREA B1: EMS AGENCY GENERAL LICENSURE REQUIREMENT (Sections 100 - 104)

**100. AGENCY LICENSE REQUIRED.**
Any organization that advertises or provides ambulance, air medical, or non-transport EMS in Idaho must be licensed as an EMS agency under Sections 56-1011 through 56-1023, Idaho Code, and these rules. ( )

**101. EXEMPTION OF EMS AGENCY LICENSURE.**
An organization, licensed without restriction to provide EMS in another state and not restricted from operating in Idaho by the EMS Bureau, may provide EMS in Idaho within the limits of its license without an Idaho EMS license only when the organization meets one (1) of the following: ( )

**01. Interstate Compact with Idaho**. The organization holds an EMS license in another state where an interstate compact specific to EMS agency licensure with Idaho is in effect. ( )

**02. Emergency, Natural, or Man-made Disaster**. The organization is responding to an emergency, or a natural or man-made disaster, declared by federal, state, or local officials and the services of the organization are requested by an entity of local or state government in Idaho. ( )

**03. Transfer of Patient From Out-of-State Medical Facility**. The organization is transferring a patient from an out-of-state medical facility: ( )

**a.** To a medical facility in Idaho. The organization may return the patient to the point of origin; or ( )

**b.** Through the state of Idaho. ( )

**04. Transport of Patient From Out-of-State Emergency Scene**. The organization is transporting a patient: ( )

**a.** From an out-of-state emergency scene to a medical facility in Idaho; or ( )

**b.** To a rendezvous with another ambulance. ( )

**102. SERVICES PROVIDED BY A LICENSED EMS AGENCY.**
An EMS agency can provide only those services that are within the agency's service types and clinical levels stated on the most recent license issued by the EMS Bureau, except when the agency has a planned deployment agreement described in these rules. ( )

**103. ELIGIBILITY FOR EMS AGENCY LICENSURE.**
An entity is eligible for EMS agency licensure upon demonstrated compliance with Idaho statutes and administrative rules in effect at the time the EMS Bureau receives the application. ( )

**104. (RESERVED)**

**SUBAREA B2: EMS AGENCY LICENSURE MODEL**
**(Sections 105 - 119)**

**105. EMS AGENCY-- LICENSING MODEL.**

**01. Licensing an EMS Agency**. An eligible EMS agency is licensed using a descriptive model that bases the agency licensure on the declarations made in the most recent approved initial or renewal application. An EMS agency must provide only those EMS services described in the most recent application on which the agency was issued a license by the EMS Bureau. ( )

**02. EMS Agency License Models**. An EMS agency license is based on the agency's service types and clinical levels. Geographic coverage areas and resources may differ between the service types and clinical levels under which an agency is licensed. ( )

**03. EMS Agency Providing Air Medical and Ground-Based EMS Services**. An EMS agency that provides both air medical and ground-based EMS services must be licensed accordingly and meet all the requirements of an air medical and either an ambulance or non-transport agency, depending on the ground EMS services provided. ( )

**04. Multiple Organization EMS Agency**. An EMS agency may be comprised of multiple organizations licensed under a single responsible authority to which the governing officials of each organization agree. The authority must establish a deployment strategy that declares in which areas and at what times within their geographical response area will be covered by the declared service types and clinical levels. ( )

**106. EMS AGENCY – SERVICE TYPES.**
An EMS agency may be licensed as one (1) or more service types. An agency that provides multiple service types must meet the requirements for each service type provided. The following are the agency services types available for EMS agency licensure. ( )

**01. Ambulance Service Types**. An agency that is licensed as an ambulance service is intended for patient transport or transfer. ( )

**a.** 911 Response Transport Service. Available to an agency that provides emergency medical care at emergency scenes, during transports or transfers, and has the primary responsibility of responding to 911 calls dispatched by a Public Safety Answering Point (PSAP) or Consolidated Emergency Communication System (CECS) within a specified geographical area. ( )

**b.** Transport Service. Available to an agency that provides emergency medical care during transports or transfers but does not respond to 911 calls. Transport services only respond to calls using emergency driving procedures for emergency hospital-to-hospital transfers and when requested by a CECS, PSAP, or a 911 Response agency. ( )

**02. Non-Transport Service Types**. An agency that is licensed as a non-transport service is not intended for patient transport or transfers and cannot advertise ambulance services. ( )

**a.** 911 Response Non-Transport Service. Available to an agency that provides emergency medical care at an emergency scene and has the primary responsibility of responding to 911 calls dispatched by a CECS or PSAP within a specified geographical area. ( )

**b.** Non-Transport Service. Available to an agency that provides emergency medical care but does not respond to 911 calls or respond to calls using emergency driving procedures unless requested by a CECS, PSAP, or a 911 Response agency. ( )

**03. Air Medical Service Types**. An agency that is licensed with an air medical service type is intended for patient transport, transfer, or rescue. ( )

**a.** Air Medical Transport Service. Available to an agency that provides air medical response and transport of patients from emergency scenes and hospitals utilizing a fixed-wing or rotary-wing air ambulance. ( )

**b.** Air Medical Rescue Service. Available to an agency that provides air medical response via fixed-wing or rotary-wing aircraft to emergency scenes for transportation of patients from an emergency scene to a rendezvous with a ground or air medical transport agency. ( )

**107. EMS AGENCY – CLINICAL LEVELS.**
An EMS agency is licensed at one (1) or more of the following clinical levels depending on the agency's highest level of licensed personnel and life support services advertised or offered, and provided according to requirements per the incorporated EMSPC Standards Manual. ( )

**01. Basic Life Support (BLS)**. Deploys licensed EMS personnel trained and equipped to provide all EMR or EMT skills. ( )

**02. Intermediate Life Support (ILS)**. Deploys licensed EMS personnel trained and equipped to provide Advanced EMT skills. ( )

**03. Advanced Life Support (ALS)**. Deploys licensed EMS personnel trained and equipped to provide Paramedic skills. ( )

**108. EMS AGENCY -- SPECIALTY SERVICES.**
Each EMS agency offering the following specialty services must report such services to the EMS Bureau. ( )

**01. Critical Care (CC)**. The provision of EMS personnel trained, credentialed, and equipped to provide all critical care skills and required staffing per the incorporated EMSPC Standards Manual. ( )

**02. Community Health EMS (CHEMS)**. The provision of evaluation, advice, or treatment of eligible recipients outside of a hospital setting as part of a community-based team of health and social services providers as authorized by local medical control. ( )

**a.** Clinical treatments and patient assessments cannot exceed the agency's licensed clinical level. ( )

**b.** Community Health EMS involving or related to emergency response must be provided by or in coordination with the primary 911 Response Transport agency for that area. ( )

**03. Tactical EMS (TEMS)**. The provision of emergency medical care in support of law enforcement activities. ( )

**a.** The Tactical EMS specialty service must be formally affiliated with one (1) or more local law

enforcement agencies. ( )

**b.** Clinical treatments of patients cannot exceed the agency's licensed clinical level unless authorized by the EMSPC. ( )

**04. Special Pathogen Transport (SPT)**. The provision of emergency medical care and transport of patients suffering from exposure or disease caused by highly infectious special pathogens. ( )

**109. (RESERVED)**

**110. NON-TRANSPORT EMS AGENCY -- PATIENT MOVEMENT.**
A non-transport agency can move a patient by vehicle only when: ( )

**01. Accessibility of Emergency Scene**. The responding ambulance or air ambulance agency cannot access the emergency scene. ( )

**02. Licensed Personnel Level**. Patient care is provided by EMS personnel licensed at: ( )

**a.** EMT level or higher; or ( )

**b.** EMR level only when the patient care integration agreement under which the non-transport agency operates addresses and enables patient movement. The agency must ensure that its personnel are trained and credentialed in patient packaging and movement. ( )

**03. Rendezvous with Transport EMS Agency**. Movement of the patient is to rendezvous with an ambulance or air ambulance agency during which the EMS personnel must be in active communication with the ambulance or air ambulance with which they will rendezvous. ( )

**04. Report Patient Movement**. A non-transport agency must report all patient movement events to the EMS Bureau within thirty (30) days of the event. ( )

**111. – 119. (RESERVED)**

**SUBAREA B3: PERSONNEL REQUIREMENTS FOR EMS AGENCY LICENSURE (Sections 120 - 129)**

**120. EMS AGENCY – GENERAL PERSONNEL REQUIREMENTS.**
Personnel must be licensed as described in these rules. ( )

**01. Personnel Requirements for EMS Agency Licensure**. Each agency must ensure availability of affiliated personnel licensed and credentialed at or above the clinical level for the entire anticipated call volume, except that an agency holding a 911 Response Transport or 911 Response Non-transport license may request a waiver of this requirement from the EMS Bureau. ( )

**02. Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch**. An agency dispatched by a CECS that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure availability of personnel licensed and credentialed at clinical levels appropriate to the anticipated call volume for each of the clinical levels the agency provides. ( )

**03. Personnel Requirements for an Agency Utilizing Ambulance-Based Clinicians**. An agency may use ambulance-based clinicians to meet the licensed personnel requirements for agency licensure as follows: ( )

**a.** 911 Response Transport, or 911 Response Non-transport Service licensed at the BLS or ILS clinical level. ( )

**b.** Transport Service licensed at the ALS clinical level. ( )

**121. EMS AGENCY -- SPECIALTY SERVICE PERSONNEL REQUIREMENTS.**
Each EMS agency offering specialty services as described in these rules is responsible for reporting personnel trained and credentialed to provide those services to the EMS Bureau. ( )

**01. Critical Care**. EMS personnel must have been formally trained, credentialed, and equipped to provide all critical care skills per the incorporated EMSPC Standards Manual. ( )

**02. Community Health EMS**. Licensed EMS personnel must have received standardized CHEMS training recognized by the EMS Bureau to participate in patient care related to CHEMS. ( )

**03. Tactical EMS**. Licensed EMS personnel must have received specialized training to provide emergency medical care in support of law enforcement activities. ( )

**04. Special Pathogens Transport**. Licensed EMS personnel must have received specialized training specific to the transport of patients suffering from exposure or disease caused by highly infectious special pathogens. Such training must include, at a minimum, proper use of appropriate PPE, avoiding disease exposure, use of specialized equipment and containment systems used during transport, crew member and public safety concerns, and proper waste management. ( )

**122. AMBULANCE SERVICE -- PERSONNEL REQUIREMENTS.**
Each ambulance service must ensure that there is one (1) EMS provider providing patient care, not including the driver, on each patient transport or transfer. The crew member providing patient care, at a minimum, must be a licensed EMR with an ambulance certification or a licensed EMT. ( )

**01. Emergency Scene ALS**. A licensed paramedic must be present whenever ALS services are provided at an emergency scene or during patient transport to a medical facility. ( )

**02. Interfacility Transfers ALS**. ( )

**a.** A licensed paramedic or ambulance-based clinician must provide ALS services during interfacility transfers. ( )

**b.** A BLS or ILS 911 Response Transport Service may conduct ALS interfacility transfers with a licensed paramedic or ambulance-based clinician if equipped with ALS equipment necessary to provide appropriate patient care and ALS interventions. ( )

**03. Critical Care**. A minimum of one (1) credentialed critical care provider and one (1) additional paramedic or ambulance-based clinician are required in the patient compartment during patient transport. Special consideration may be given for the second provider based on a specific specialized patient need. ( )

**123. AIR MEDICAL TRANSPORT SERVICE -- PERSONNEL REQUIREMENTS.**
Each air medical transport service must ensure that the standard medical flight crew consists of, at a minimum, one (1) licensed Paramedic and one (1) licensed Registered Nurse. At least one (1) crew member on each flight must hold critical care credentials per the incorporated EMSPC Standards Manual. Air Medical Transport Services may utilize alternate medical crew configurations for specific situations as stated below: ( )

**01. Emergency Scene Transports**. Alternate crew configurations for emergency scene response and patient transport. ( )

**a.** Two (2) Paramedics. ( )

**b.** When no other crew with a licensed Paramedic and no other Air Medical Transport Service with a Paramedic crew member is available, an Air Medical Transport Service may deploy a crew of two (2) licensed Registered Nurses. ( )

**02. Interfacility Transfers**. Alternate crew configurations for interfacility transfers, based on patient

need. ( )

**a.** Two (2) Registered Nurses. ( )

**b.** One (1) Registered Nurse and One (1) Respiratory Therapist. ( )

**c.** Two (2) Paramedics when both possess critical care credentials as described in the incorporated EMSPC Standards Manual. ( )

**124. PERSONNEL FOR AIR MEDICAL RESCUE SERVICE.**
An Air Medical Rescue service must ensure that each flight includes a minimum of one (1) patient care provider licensed at or above the agency's clinical level of licensure, not including the pilot. The crew member providing patient care, at a minimum, must be a licensed EMT. ( )

**125. PLANNED DEPLOYMENT -- PERSONNEL REQUIREMENTS.**
Planned deployment allows affiliated EMS personnel to act and provide predetermined services outside of their affiliating agency's geographic coverage area. It can allow EMS personnel licensed at a higher clinical level to provide patient care within their credentialed scopes of practice even when the agency into which the planned deployment occurs is licensed at a lower clinical level. A planned deployment agreement must be formally documented and meet the requirements described in the EMS Agency Standards Manual incorporated in these rules. ( )

**126. AMBULANCE-BASED CLINICIANS -- PERSONNEL REQUIREMENTS.**

**01. Ambulance-Based Clinician Certified by the EMS Bureau**. An EMS agency that advertises or provides out-of-hospital patient care by affiliating and utilizing a currently licensed registered nurse, advanced practice registered nurse, or physician assistant, must ensure that those individuals maintain a current ambulance-based clinician certificate issued by the EMS Bureau. See Section 127 of these rules for exceptions to this requirement. ( )

**02. Obtaining an Ambulance-Based Clinician Certificate**. An agency, on behalf of an individual who desires an ambulance-based clinician certificate, must provide on the EMS Bureau's application documentation that the individual: ( )

**a.** Holds a current, unrestricted license to practice issued by the Board of Medicine or Board of Nursing; and ( )

**b.** Has successfully completed an EMS Bureau-approved ambulance-based clinician training; or ( )

**c.** Has successfully completed an EMT course. ( )

**03. Maintaining an Ambulance-Based Clinician Certificate**. An ambulance-based clinician certificate is valid for as long as the holder of the certificate is continuously licensed by their respective licensing board. ( )

**04. Revocation of an Ambulance-Based Clinician Certificate**. The EMS Bureau may revoke an ambulance-based clinician certificate based on the procedures for administrative license actions described in these rules. ( )

**05. Agency Responsibilities for Ambulance-Based Clinicians**. The agency must verify that each ambulance-based clinician possesses a current EMS Bureau-issued ambulance-based clinician certificate. The agency must ensure that any ambulance-based clinician meets additional requirements of the corresponding licensing board. ( )

**127. UTILIZING PHYSICIAN ASSISTANTS, REGISTERED NURSES, OR ADVANCED PRACTICE REGISTERED NURSES.**

An AEMT/ILS ambulance agency may use a non-certified physician assistant, licensed registered nurse, or advanced practice registered nurse as the crew member who is providing ILS patient services, only when accompanied by a licensed EMR with an ambulance certification or a licensed EMT in the patient compartment of the transport vehicle. ( )

**128. -- 129. (RESERVED)**

**SUBAREA B4: EMS AGENCY VEHICLE REQUIREMENTS
(Sections 130 - 139)**

**130. EMS AGENCY -- VEHICLE REQUIREMENTS.**
Not all EMS agencies need to have emergency response vehicles. An agency's need for emergency response vehicles is based on the deployment needs of the agency that is declared on the most recent agency licensure application. An agency with a deployment pattern that requires emergency response vehicles must meet the following: ( )

**01. Condition of Response Vehicles**. Each of the agency's EMS response vehicles is in sound, safe, working condition. ( )

**02. Quantity of Response Vehicles**. Each EMS agency possesses a sufficient quantity of EMS response vehicles to ensure agency personnel can respond to the anticipated call volume of the agency. ( )

**03. Motor Vehicle Licensing Requirements**. Each of the EMS agency's response vehicles meets the Idaho motor vehicle license and insurance requirements. ( )

**04. Configuration and Standards for EMS Response Vehicles**. Each of the EMS agency's response vehicles is appropriately configured with the declared capabilities on the most recent agency license. Each EMS response vehicle meets the requirements for applicable federal, state, industry, or trade specifications and standards for ambulance or air ambulance vehicles as appropriate. Uniquely configured EMS response vehicles are approved by the EMS Bureau prior to being put into service. ( )

**05. Location of Emergency Response Vehicles**. Each of the agency's EMS response vehicles is stationed or staged within the agency's declared geographic coverage area in a manner that allows agency personnel to effectively respond to the anticipated volume and distribution of requests for service. ( )

**131. NON-TRANSPORT EMS AGENCY -- VEHICLES.**
A licensed non-transport EMS agency may use ambulance vehicles to provide non-transport services. ( )

**132. EMS AGENCY -- MINIMUM EQUIPMENT INSPECTION REQUIREMENTS.**
Any newly acquired EMS response vehicle must be inspected by the EMS Bureau for medical care supplies and devices as specified in the "Minimum Equipment Standards for Licensed EMS Services" document incorporated in these rules before being put into service, except when the newly acquired vehicle is a replacement vehicle and all equipment and supplies are transferred from the vehicle being taken out of service. ( )

**133. EMS AGENCY -- GROUND VEHICLE SAFETY INSPECTION REQUIREMENTS.**
Each EMS agency that deploys emergency vehicles titled and registered for use on roads and highways, except for all-terrain vehicles and utility vehicles, must meet the following. ( )

**01. New Vehicle Inspection**. Each newly acquired, used EMS response vehicle has passed a safety inspection conducted by an inspector authorized to perform Department of Transportation (DOT) vehicle safety inspections prior to the vehicle being put in service. ( )

**02. Response Vehicle Involved in a Crash**. Each EMS response vehicle, that is involved in a crash that could result in damage to one (1) or more of the vehicle systems identified in Subsection 133.03 of this rule, has passed a safety inspection conducted by an inspector authorized to perform DOT vehicle safety inspections prior to being put back in service. ( )

**03. Vehicle Inspection Standards**. Each vehicle safety inspection has verified conformity to the fuel

system, exhaust, wheels and tires, lights, windshield wipers, steering, suspension, brakes, frame, and electrical system elements of a DOT vehicle safety inspection defined in Appendix G to Subchapter B of Chapter III at 49 CFR Section 396.17. ( )

**04. Vehicle Inspection Records**. Each EMS agency keeps records of all emergency response vehicle safety inspections and are available to the EMS Bureau upon request. ( )

**134. -- 139. (RESERVED)**

## SUBAREA B5: EMS AGENCY REQUIREMENTS AND WAIVERS (Sections 140 - 179)

**140. EMS AGENCY -- GENERAL EQUIPMENT REQUIREMENTS AND MODIFICATIONS.**
Each EMS agency must meet the requirements of the incorporated Minimum Equipment Standards document, in addition to the following: ( )

**01. Equipment and Supplies**. Each EMS agency maintains sufficient quantities of medical care supplies and devices specified in the minimum equipment standards to ensure availability for each response. ( )

**02. Safety and Personal Protective Equipment**. Each EMS agency maintains safety and personal protective equipment for licensed personnel and other vehicle occupants as specified in the minimum equipment standards. This includes equipment for body substance isolation and protection from exposure to communicable diseases and pathogens. ( )

**03. Modifications to an EMS Agency's Minimum Equipment List**. An EMS agency's minimum equipment list may be modified upon approval by the EMS Bureau. Requests for equipment modifications are submitted to the EMS Bureau and include clinical and operational justification for the modification and are signed by the EMS agency's medical director. Approved modifications are granted by the EMS Bureau as either an exception or an exemption. ( )

**a.** Exceptions to the agency's minimum equipment list requirements may be granted by the EMS Bureau upon inspection or review of a modification request, when the circumstances and available alternatives assure that appropriate patient care will be provided for all anticipated incidents. ( )

**b.** Exemptions that remove minimum equipment and do not provide an alternative may be granted by the EMS Bureau following review of a modification request. The request must describe the agency's deployment model and why there is no anticipated need for the specified equipment to provide appropriate patient care. ( )

**04. Review of an Equipment Modification Request**. Each request from an EMS agency for equipment modification will be reviewed by the EMS Bureau and may be reviewed by the EMSPC. The recommendations from EMSPC are submitted to the EMS Bureau which has the final authority to approve or deny the modification request. ( )

**05. Denial of an Equipment Modification Request**. An EMS agency may appeal the denial of an equipment modification request under Title 67, Chapter 52, Idaho Code. ( )

**06. Renewal of Equipment Modification**. An EMS agency's equipment modification must be reviewed and reaffirmed as follows: ( )

**a.** Annually, with the agency license renewal application; or ( )

**b.** When the EMS agency changes its medical director. ( )

**141. AIR MEDICAL EMS AGENCY -- EQUIPMENT REQUIREMENTS AND MODIFICATIONS.**
Each air medical agency must meet the requirements under Section 140 of these rules, and the following: ( )

**01. FAA 135 Certification**. The air medical agency holds a Federal Aviation Administration 135

certification. ( )

**02. Configuration and Equipment Standards**. Aircraft and equipment configuration that does not compromise the ability to provide appropriate care or prevent emergency care providers from safely performing emergency procedures, if necessary, while in flight. ( )

**142. -- 149. (RESERVED)**

**150. EMS AGENCY -- COMMUNICATION REQUIREMENTS.**
Each EMS agency must meet the following to obtain or maintain agency licensure. ( )

**01. Air Medical EMS Agency**. Each air medical agency has mobile radios of sufficient quantities to ensure that every aircraft and ground crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone-coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**02. Ambulance EMS Agency**. Each ambulance EMS agency has mobile radios of sufficient quantities to ensure that every vehicle crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone-coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**03. Non-transport EMS Agency**. Each non-transport EMS agency has mobile or portable radios of sufficient quantities to ensure that agency personnel at an emergency scene have the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone-coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**151. EMS AGENCY -- DISPATCH REQUIREMENTS.**

**01. Twenty-four Hour Dispatch Arrangement**. Each EMS agency must have a twenty-four (24) hour dispatch arrangement, except an agency with a twenty-four (24) hour response waiver may have a dispatch arrangement specific to the waiver deployment plan. ( )

**02. Incoming Requests for Out-of-Hospital Response**. Each ambulance agency that is not dispatched by a CECS or PSAP must record incoming requests for out-of-hospital transports and retain such recordings for a period of one (1) year. ( )

**152. -- 159. (RESERVED)**

**160. EMS AGENCY -- RESPONSE REQUIREMENTS AND WAIVERS.**
Each EMS agency must respond to calls on a twenty-four (24) hour a day basis within the agency's declared geographic coverage area unless a waiver exists. ( )

**161. NON-TRANSPORT EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.**
The controlling authority of a non-transport agency may petition the EMS Bureau for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following exist: ( )

**01. Not Populated on 24-Hour Basis**. The community, setting, industrial site, or event being served by the agency is not populated on a twenty-four (24) hour basis. ( )

**02. Not on Daily Basis Per Year**. The community, setting, industrial site, or event being served by the agency does not exist on a three hundred sixty-five (365) day per year basis. ( )

**03. Undue Hardship on Community**. The provision of twenty-four (24) hour response would cause an undue hardship on the community being served by the agency. ( )

**04. Abandonment of Service**. The provision of twenty-four (24) hour response would cause abandonment of the service provided by the agency. ( )

**162. NON-TRANSPORT EMS AGENCY -- PETITION FOR WAIVER.**

**01. Petition for Waiver**. The controlling authority of an existing non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the EMS Bureau and provide the information described under the incorporated EMS Agency Standards Manual document. ( )

**02. Waiver Declared on Initial Application**. The controlling authority of an applicant non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must declare the request for waiver on the initial application for agency licensure to the EMS Bureau and provide the information described under the incorporated document in the incorporated EMS Agency Standards Manual document. ( )

**03. Renewal of Waivers**. The controlling authority of a non-transport agency desiring to renew a waiver of the twenty-four (24) hour response requirement must declare the request for renewal of the waiver on the annual renewal application for agency licensure to the EMS Bureau. ( )

**163. -- 164. (RESERVED)**

**165. AMBULANCE OR AIR MEDICAL EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.**
The controlling authority of an existing ambulance or air medical agency may petition the EMS Bureau for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following exist as a result of the provision of twenty-four (24) hour response: ( )

**01. Undue Hardship on the Community Being Served by the Agency**. ( )

**02. Abandonment of the Service by the Agency**. ( )

**166. AMBULANCE OR AIR MEDICAL EMS AGENCY -- PETITION FOR WAIVER.**
The controlling authority of an existing ambulance or air medical agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the EMS Bureau and provide the information described in the incorporated EMS Agency Standards Manual document. ( )

**167. -- 169. (RESERVED)**

**170. EMS AGENCY -- MEDICAL SUPERVISION REQUIREMENTS.**
Each EMS agency must comply with medical supervision plan requirements and designate a physician as the agency medical director who is responsible for the supervision of medical activities per the incorporated EMSPC Standards Manual ( )

**171. -- 174. (RESERVED)**

**175. RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS.**
Each licensed EMS agency must collect and submit EMS response records to the EMS Bureau as follows: ( )

**01. Records to be Maintained**. Include a Patient Care Report completed for each EMS Response. ( )

**02. Records to be Submitted**. Ensure that an accurate and complete electronic Patient Care Report (ePCR) is submitted to the EMS Bureau using approved and validated software in a format determined by the EMS Bureau. ( )

**03. Time Frame for Submitting Records**. Submit each month's data to the EMS Bureau by the 15th of the following month in a format determined by the EMS Bureau. ( )

**176. -- 179. (RESERVED)**

## SUBAREA B6: EMS AGENCY AGREEMENTS, PLANS, AND POLICIES (Sections 180 - 199)

**180. EMS AGENCY -- AGREEMENTS, PLANS, AND POLICIES.**
When applicable, each EMS agency must make the following agreements, plans, and policies available to the EMS Bureau upon request. ( )

**181. EMS AGENCY – AMBULANCE SERVICE RESPONSE AGREEMENTS.**
Each EMS agency with out-of-hospital customer service agreements to provide ambulance services that are not dispatched by the local CECS or PSAP must provide the customer with written criteria to reasonably identify potential medical emergencies that should be referred to a CECS or PSAP for dispatch of a 911 Response agency unless a staffed ambulance is already on site at the patient's location. ( )

**182. EMS AGENCY -- PATIENT CARE INTEGRATION.**

**01. Cooperative Agreements for Common Geographic Coverage Area**. Each ground EMS agency that shares common geographic coverage areas with other EMS agencies must develop cooperative written agreements that address integration of patient care between the agencies. A ground agency cannot provide a level of care that exceeds the clinical level of a prehospital agency receiving the patient unless the written patient integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. ( )

**02. Cooperative Agreement for Non-Transport Agency**. Each 911 Response non-transport EMS agency must have a cooperative written agreement with each of the 911 Response Transport Services that provide response and patient transportation within that geographical area. The agreement must address integration of patient care between the agencies. A non-transport agency may not provide a level of care that exceeds the clinical level of the responding 911 Response Transport Service unless the integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. ( )

**183. AIR MEDICAL EMS AGENCY -- PATIENT CARE INTEGRATION.**
Each air medical agency must declare and make available its patient care integration policies to the EMS Bureau upon request. ( )

**184. EMS AGENCY -- PLANNED DEPLOYMENT AGREEMENTS.**
Each EMS agency that utilizes a planned deployment must develop a cooperative planned deployment agreement between the EMS agencies under the incorporated EMS Agency Standards Manual document. ( )

**185. -- 189. (RESERVED)**

**190. AIR MEDICAL EMS AGENCY -- REQUIRED POLICIES.**
Each air medical EMS agency must have the following policies on file with the EMS Bureau as described under the incorporated EMS Agency Standards Manual document: ( )

**01. Non-Discrimination Policy**. ( )

**02. Weather Turn Down Policy**. ( )

**03. Patient Destination Procedure**. ( )

**04. Safety Program Policy**. ( )

**05. Training Policy**. ( )

**191. -- 199. (RESERVED)**

## SUBAREA B7: EMS AGENCY UTILIZATION OF AIR MEDICAL SERVICES (Sections 200 - 219)

**200. EMS AGENCY -- CRITERIA TO REQUEST AN AIR MEDICAL RESPONSE.**
Each ground EMS agency must establish written criteria as described in the incorporated EMS Agency Standards Manual document for the agency's licensed EMS personnel that provides decision-making guidance for requesting an air medical response to an emergency scene. This criteria must be approved by the agency's medical director. ( )

**201. EMS AGENCY -- EMS PERSONNEL REQUEST FOR AIR MEDICAL RESPONSE.**
Licensed EMS personnel en route to, or at, the emergency scene have the primary responsibility and authority to request the response of air medical services using the local incident management system and licensed EMS agency written criteria under the incorporated EMS Agency Standards Manual document. ( )

**202. EMS AGENCY -- CANCELLATION OF AN AIR MEDICAL RESPONSE.**
Following dispatch of air medical services, an air medical response may only be canceled upon completion of a patient assessment performed by licensed EMS personnel. ( )

**203. EMS AGENCY -- ESTABLISHED CRITERIA FOR SIMULTANEOUS DISPATCH.**
Under the incorporated EMS Agency Standards Manual document, a ground EMS agency may establish criteria for simultaneous dispatch for air and ground medical response. ( )

**204. EMS AGENCY-- SELECTION OF AIR MEDICAL AGENCY.**
Each EMS agency has the responsibility to select an appropriate air medical service and have on file selection policies as described in the incorporated EMS Agency Standards Manual document. ( )

**205. -- 209. (RESERVED)**

**210. EMS AGENCY -- LANDING ZONE PROCEDURES FOR AIR MEDICAL RESPONSE.**
A licensed ambulance or non-transport EMS agency in conjunction with an air medical agency must have written procedures for the establishment of a landing zone. These procedures must be compatible with the local incident management system. ( )

**211. EMS AGENCY -- REVIEW OF AIR MEDICAL RESPONSES.**
Each EMS agency must provide incident-specific patient care related data identified and requested by the EMS Bureau in the review of air medical response criteria. ( )

**212. -- 219. (RESERVED)**

## SUBAREA B8: EMS AGENCY INSPECTIONS (Sections 220 - 249)

**220. EMS AGENCY -- INSPECTIONS BY THE EMS BUREAU.**
The EMS Bureau is authorized to enter an agency's facility at reasonable times to inspect an agency's vehicles, equipment, response records, and other necessary items to determine that the EMS agency is in compliance with Idaho statutes and administrative rules. ( )

**221. EMS AGENCY -- INSPECTION REQUESTS AND SCHEDULING.**
An applicant eligible for agency inspection must contact the EMS Bureau to schedule an inspection. In the event that the acquisition of capital equipment, hiring, or licensure of personnel is necessary for the inspection process, the applicant must notify the EMS Bureau when ready for the inspection. ( )

**222. EMS AGENCY -- INSPECTION TIMEFRAME AFTER NOTIFICATION OF ELIGIBILITY.**
An applicant must schedule and have an inspection completed within six (6) months of notification of eligibility by the EMS Bureau. An application without an inspection completed within six (6) months is void and must be resubmitted as an initial application. ( )

**223. -- 224. (RESERVED)**

**225. EMS AGENCY -- INITIAL AGENCY INSPECTION.**
The EMS Bureau will perform an initial inspection, which is an integral component of the application process, to

ensure the EMS agency applicant is complying with the following: ( )

**01. Validation of Initial Application**. Validate the information contained in the application. ( )

**02. Verification of Compliance**. Verify the applicant is complying with Idaho statutes and administrative rules. ( )

**226. EMS AGENCY -- DEMONSTRATION OF CAPABILITIES DURING INSPECTION.**
The EMS Bureau will review historical and current information during the annual, random, and targeted inspections whereas an applicant must demonstrate the following during the initial inspection process: ( )

**01. Validation of Ability to Submit Data**. Each EMS agency applicant must demonstrate the ability to submit data described in these rules. ( )

**02. Validation of Ability to Communicate**. Each EMS agency applicant must demonstrate the ability to communicate via radio with the state EMS communications center, local dispatch center, neighboring EMS agencies on which the applicant will rely for support, first response, air and ground patient transport, higher level patient care, or other purposes. ( )

**227. -- 229. (RESERVED)**

**230. EMS AGENCY -- CONDITION THAT RESULTS IN VEHICLE OR AGENCY OUT OF SERVICE.**
Upon discovery of a condition during inspection that could reasonably pose an immediate threat to the safety of the public or agency staff, the EMS Bureau may declare the condition unsafe and remove the vehicle or agency from service until the unsafe condition is corrected. ( )

**231. -- 239. (RESERVED)**

**240. EMS AGENCY -- EXEMPTIONS FOR AGENCIES CURRENTLY ACCREDITED BY A NATIONALLY RECOGNIZED PROFESSIONAL EMS ACCREDITATION AGENCY.**
Upon petition by the accredited agency, the EMS Bureau will review the accreditation standards under which the accredited agency was measured and may waive specific duplicated annual inspection requirements where appropriate. If an external accreditation inspection is found to be more rigorous than that of the EMS Bureau, the EMS Bureau may elect to relax the frequency of annual inspections or waive annual inspections altogether. ( )

**241. -- 249. (RESERVED)**

## SUBAREA B9: EMS AGENCY LICENSURE PROCESS (Sections 250 - 299)

**250. EMS AGENCY -- APPLICATION FOR INITIAL LICENSURE.**
To be considered for initial EMS agency licensure, an organization seeking licensure must request, complete, and submit the standardized EMS agency initial license application form provided by the EMS Bureau. ( )

**251. EMS AGENCY -- LICENSURE EXPIRATION.**
Each EMS agency license, unless otherwise declared on the license, is valid for one (1) year from the end of the month of issuance by the EMS Bureau. ( )

**252. -- 259. (RESERVED)**

**260. LAPSED LICENSE.**

**01. Application Not Submitted Prior to Expiration of Current License**. An agency that does not submit a complete application as prescribed in these rules will be considered lapsed. The license will no longer be valid. ( )

**02. Grace Period**. No grace periods or extensions to an expiration date will be granted when an agency

has not submitted a completed renewal application on, or before, the date the current license expires. ( )

**03. Lapsed License**. An agency that has a lapsed license cannot provide EMS services. ( )

**04. Regaining Agency Licensure**. An agency with a lapsed license will be considered an applicant for initial licensure and is bound by the same requirements and processes as an initial applicant. ( )

**261. -- 269. (RESERVED)**

**270. EMS AGENCY LICENSE -- NONTRANSFERABLE.**
An EMS agency license issued by the EMS Bureau cannot be transferred or sold. ( )

**271. CHANGES TO A CURRENT LICENSE.**
An agency's officials must submit an agency update to the EMS Bureau within sixty (60) days of any of the following: ( )

**01. Changes Requiring Update**. An agency's officials must submit an agency update to the EMS Bureau within sixty (60) days of any of the following: ( )

**a.** Changes made to the geographic coverage area by agency annexation; ( )

**b.** Licensed personnel added or removed from the agency affiliation roster. If licensed personnel are removed for cause, a description of the cause must be included; ( )

**c.** Vehicles or equipment added or removed from the agency; ( )

**d.** Changes to the agency communication plan or equipment; ( )

**e.** Changes to the agency dispatch agreement; or ( )

**f.** Changes to the agency Medical Supervision Plan. ( )

**02. Changes Requiring Initial Licensure Application**. When an agency decides to make any of the following changes, it must submit an initial agency application to the EMS Bureau and follow the initial application process described in these rules: ( )

**a.** Clinical level of licensed personnel it utilizes; ( )

**b.** Geographic coverage area changes, except by agency annexation; ( )

**c.** A non-transport agency that intends to provide patient transport or an ambulance agency that intends to discontinue patient transport and become a non-transport agency; or ( )

**d.** An agency that intends to add a 911 Response to an Ambulance Service license or Non-Transport Service license. ( )

**272. -- 279. (RESERVED)**

**280. TIME SENSITIVE EMERGENCY CERTIFICATION.**
The EMS Bureau will certify an EMS Agency as a TSE Designated EMS Agency when such agency, upon proper application and verification, is found to meet the applicable designation criteria under the incorporated EMS Agency Standards Manual document. ( )

**281. -- 299. (RESERVED)**

## SUBPART C – PERSONNEL LICENSING REQUIREMENTS (Sections 300 - 399)

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

**01. Method of Treatment**. EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. EMS personnel must not perform any medical procedure or provide medication that deviated from or exceeds the scope of practice for the corresponding level of licensure established per these rules and the incorporated EMSPC Standards Manual. ( )

**02. Knowledge and Proficiency**. EMS personnel must maintain standards of knowledge and proficiency as required by this chapter of rules and the incorporated EMSPC Standards Manual. ( )

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

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

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

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

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

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

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

**301. -- 304. (RESERVED)**

**305. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES.**
Licensed EMS personnel must follow the DNR protocol established by the EMS Bureau. ( )

**306. -- 309. (RESERVED)**

**SUBAREA C1: PERSONNEL LICENSURE REQUIREMENTS
(Sections 310 - 374)**

**310. PERSONNEL LICENSURE REQUIRED.**
Any individual who provides emergency medical care must obtain and maintain a current EMS personnel license issued by the EMS Bureau, or recognition by the EMS Bureau as described in these rules. The levels of Idaho personnel licensure are: ( )

**01. Emergency Medical Responder (EMR)**. ( )

**02. Emergency Medical Technician (EMT).** ( )

**03. Advanced Emergency Medical Technician (AEMT).** ( )

**04. Paramedic.** ( )

**311. AFFILIATION REQUIRED TO PRACTICE.**
Licensed EMS personnel must be affiliated with an EMS agency, and only practice under the supervision of the agency medical director as required in these rules and the incorporated EMSPC Standards Manual. ( )

**312 -- 314. (RESERVED)**

**315. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA).**

**01. Licensed EMS Personnel from a REPLICA Member State**. Obtaining an Idaho EMS personnel license is not required as long as a REPLICA member state license is maintained. An individual who possesses a current, valid, and unrestricted EMS personnel license from a REPLICA member state, upon request by the individual, will be issued an Idaho EMS personnel license at the same level of licensure as the REPLICA home state license provided the individual is affiliated with an Idaho licensed EMS agency. ( )

**316 -- 319. (RESERVED)**

**320. APPLICATION AND INSTRUCTIONS FOR EMS PERSONNEL LICENSURE.**
A personnel license or certificate of eligibility application and instructions may be obtained from the EMS Bureau, see online at: http://www.idahoems.org. ( )

**321. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.**
An individual who has successfully completed an EMS education course is eligible to attempt the standardized examination for the appropriate level of licensure. ( )

**01. Standardized Examination**. A candidate must successfully complete all components of the standardized examination within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. ( )

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

**322 -- 324. (RESERVED)**

**325. LICENSURE OF MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.**
A member of the military, a former member of the military after discharge under honorable conditions, a veteran, or a spouse of any such person who possesses a current, valid, and unrestricted EMS personnel license in another state, district, or territory of the United States is eligible for EMS personnel licensure in Idaho as follows: ( )

**01. REPLICA State License**. Those personnel who have a license from a REPLICA state are licensed under Section 315 of these rules; ( )

**02. Non-REPLICA License**. Those personnel who have a license from a non-REPLICA state are licensed under Section 326 of these rules. ( )

**326. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.**
Members of the military, veterans, and their spouses may apply to the EMS Bureau for licensure by endorsement provided they meet the following: ( )

**01. License from Another Jurisdiction**. Possess a current, valid, and unrestricted EMS personnel license, at the same or higher level as the Idaho license being requested, from another state, district, or territory of the United States. The license of any individual subject to official investigation or disciplinary proceedings is not considered current, valid, and unrestricted. ( )

**02. Previous Applications and Licensures**. Declare each state or jurisdiction in which they have ever applied for, been denied, or held an EMS license or certification. ( )

**03. Release of Information**. Provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ( )

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

**05. Identification**. Have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the armed forces of the United States. ( )

**327 -- 329. (RESERVED)**

**330. INITIAL PERSONNEL LICENSURE.**
Upon successful completion of an approved education course recognized by the EMS Bureau an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: ( )

**01. Age Requirements**. An individual applying for licensure must meet the following age requirements: ( )

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

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

**02. Previous Applications and Licensures**. A candidate must declare each state or jurisdiction in which they have applied for, been denied, or held an EMS license or certification. ( )

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

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

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

**06. Criminal History and Background Check**. A candidate must successfully complete a criminal history and background check. ( )

**07. Standardized Examination**. A candidate must successfully complete the standardized examination for the level of licensure on the application required under Section 430 of these rules. Current NREMT registration at the level of licensure requested or higher meets the examination requirement. ( )

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

the EMR level or higher within the preceding thirty-six (36) months. ( )

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

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

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

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

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

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

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

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

**09. Licensure Fee**. A candidate for AEMT or Paramedic licensure must submit the applicable initial licensure fee provided in Section 331 of these rules. ( )

## 331. APPLICATION FEES FOR PERSONNEL LICENSURE.

**01. Initial**. A candidate applying for an initial personnel license must submit the following license fee at time of application: ( )

**a.** EMR and EMT have no license fee. ( )

**b.** AEMT and Paramedic license fee is thirty-five dollars ($35). ( )

**c.** There is no initial licensure fee for members of the military, former members of the military after discharge under honorable conditions, veterans, and their spouses who are applying under Section 325 of these rules. ( )

**d.** There is no initial licensure fee for personnel from a REPLICA member state applying under Section 315 of these rules. ( )

**02. Renewal**. A candidate applying for personnel license renewal must submit the following amount at the time of application: ( )

**a.** EMR and EMT have no license renewal fee. ( )

**b.** AEMT and Paramedic license renewal fee is twenty-five dollars ($25). ( )

**03. Reinstatement**. A candidate applying for a personnel license reinstatement must pay the following amount at the time of application: ( )

**a.** EMR and EMT have no reinstatement fee. ( )

**b.** AEMT and Paramedic reinstatement fee is thirty-five dollars ($35). ( )

**332. -- 334. (RESERVED)**

**335. EMS PERSONNEL LICENSE DURATION.**
Duration of a personnel license is determined using the following specified time intervals. ( )

**01. Initial License Duration for EMR and EMT**. EMR and EMT personnel licenses expire on March 31 or September 30. Expiration dates for EMR and EMT initial licenses are set for not less than thirty-six (36) months and not more than forty-two (42) months from the date of issue in order to establish an expiration date of March 31 or September 30. ( )

**02. Initial License Duration for AEMT and Paramedic**. AEMT and Paramedic personnel licenses expire on March 31 or September 30. Expiration dates for AEMT and Paramedic initial licenses are set for not less than twenty-four (24) months and not more than thirty (30) months from the date of issue in order to establish an expiration date of March 31 or September 30. ( )

**03. Renewal Duration for EMR and EMT Level Licensure**. An EMR and EMT level personnel license is renewed for three (3) years. ( )

**04. Renewal Duration for AEMT and Paramedic Level Licensure**. An AEMT and Paramedic level personnel license is renewed for two (2) years. ( )

**05. REPLICA Licensure Duration**. EMS personnel from another REPLICA state who become licensed in Idaho will have their Idaho EMS license expire March 31 or September 30 following the expiration of their EMS license from the original state. ( )

**336. – 339. (RESERVED)**

**340. PERSONNEL LICENSE RENEWAL.**
Licensed personnel must provide documentation that they meet the following requirements: ( )

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

**02. Continuing Education for Level of Licensure Renewal**. A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 375 through 399 of these rules. The time frame for continuing education courses must meet the following requirements: ( )

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

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. ( )

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. ( )

**b.** All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed, or according to Section 345.01 of these rules. ( )

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

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. ( )

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. ( )

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

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

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

**05. Renewal Fees**. A candidate for AEMT or Paramedic license renewal must submit the applicable fee provided in Section 331 of these rules. ( )

**341. -- 344. (RESERVED)**

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

**01. Early Submission**. ( )

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

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

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

**346. -- 349. (RESERVED)**

**350. LAPSED LICENSE.**
Licensed personnel who fail to submit a complete renewal application prior to the expiration date of their license cannot practice or represent themselves as licensed EMS personnel. ( )

**01. Failure to Submit**. No grace periods or extensions to an expiration date may be granted. After the expiration date the EMS personnel license will no longer be valid. ( )

**02. Application Under Review**. Provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline, a personnel license does not lapse while under review by the EMS Bureau. ( )

**03. Failure to Provide Application Information**. After the expiration date of a license, a candidate for license renewal who does not provide the information requested by the EMS Bureau within twenty-one (21) days from the date of notification to the last known address, will be considered to have a lapsed license. ( )

**04. Reinstatement of Lapsed EMS Personnel License**. In order to reinstate a lapsed license, a

candidate must submit an application for license reinstatement to the EMS Bureau within twenty-four (24) months of the expiration date of the lapsed license and meet the requirements in Section 351 of these rules. ( )

**05. Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months**. An individual whose license has been lapsed for more than twenty-four (24) months must retake and successfully complete an initial education course for the level of licensure for reinstatement. The individual must then meet all requirements in Section 330 of these rules for an initial personnel license. ( )

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

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

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

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

**04. Continuing Education**. A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 375 through 399 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: ( )

**a.** The candidate must meet continuing education requirements under Sections 390 through 395 of these rules for the last valid licensure cycle; and ( )

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

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

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

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

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

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

**06. Criminal History and Background Check**. A reinstatement candidate must successfully complete a criminal background check. ( )

**07. Competency Certification**. The Medical Director of the reinstatement candidate's affiliating EMS agency must certify that he has actively assessed the reinstatement candidate's competency in both the psychomotor and cognitive domains and found that the reinstatement candidate meets the baseline competency requirements for the level of the lapsed license. ( )

**08. Licensure Fee**. An AEMT or Paramedic candidate must submit the applicable reinstatement

license fee provided in Section 331 of these rules. ( )

**09. Expiration Date**. The expiration date for a lapsed license that is reinstated is determined as provided in Section 335 of these rules. ( )

**352. -- 359. (RESERVED)**

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

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

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

**b.** An individual who is currently licensed or certified by another state to provide emergency medical care can apply to the EMS Bureau for limited recognition to practice in Idaho as provided in Subsection 360.02 of this rule. ( )

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

**03. Personnel with NREMT Registration or Current EMS Certification**. An individual, possessing a current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho, is eligible for an Idaho EMS personnel licensure if they satisfy the requirements in Section 330 of these rules. ( )

**04. Personnel Licensure Candidate Trained in Other States**. A candidate trained outside of Idaho must apply for and obtain an Idaho EMS license as required in Section 330 of these rules prior to providing emergency medical care in Idaho. A declaration that the candidate is fully eligible for EMS licensure in the state in which they were trained, must be obtained from the EMS licensing authority in that state and submitted to the EMS Bureau. ( )

**361. -- 364. (RESERVED)**

**365. CHANGES TO AN EXISTING LICENSE.**

**01. Surrender of a Current EMS Personnel License**. An individual who possesses a current EMS personnel license may surrender that license at any time by submitting a letter of intent and their license to the EMS Bureau. ( )

**02. Surrender of License to Prevent Investigation or Disciplinary Action**. Surrendering or expiration of a license does not prevent an investigation or disciplinary action against the individual. ( )

**03. Relinquish a Current EMS Personnel License for a Lower Level License**. An individual who possesses a current license may relinquish that license and receive a license at a lower level with the same expiration date as the original license. The individual must have current affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought. ( )

**04. Relinquishment of a License to a Lower Level License to Prevent Investigation or Disciplinary Action**. Relinquishing a personnel license does not prevent an investigation or disciplinary action

against the individual. ( )

**05. Reporting Requirements for Changes in Status**. Licensed personnel must notify the EMS Bureau within thirty (30) days of a change in name, mailing address, telephone number or agency affiliation. ( )

**06. Personnel License Duration Shortened**. The EMS Bureau will issue a license with a shortened licensure duration upon the request of the license holder. ( )

**366. MULTIPLE LICENSES.**
An individual may hold more than one (1) level of personnel licensure in Idaho, but can only renew one (1) personnel license at one (1) level. ( )

**367. -- 369. (RESERVED)**

**370. CERTIFICATE OF ELIGIBILITY REQUIREMENTS.**

**01. Personnel Licensure Requirements are Met**. An individual, who has successfully completed an approved course, and meets all requirements for EMS personnel licensure required in Section 330 of these rules, except for obtaining an agency affiliation provided in Subsection 330.04 of these rules, may apply to the EMS Bureau for a certificate of eligibility. ( )

**02. Duration**. Duration of a certificate of eligibility is determined using the specified time intervals of the personnel licensure level requirements in Section 335 of these rules. ( )

**03. Criminal History and Background Check**. An individual applying for a certificate of eligibility must successfully complete a criminal history and background check within the six (6) months prior to the issuance or renewal of a certificate of eligibility. ( )

**04. Renewal**. An individual must provide documentation that the following requirements have been met in order to renew a certificate of eligibility: ( )

**a.** Continuing education requirements for the level of licensure listed under the license renewal requirements in Section 340 of these rules have been met; and ( )

**b.** Successful completion of the standardized examination designated by the EMS Bureau for the certificate of eligibility. ( )

**05. Revocation**. The EMS Bureau will revoke a certificate of eligibility if the certificate holder is determined to no longer meet eligibility requirements or has obtained a personnel license. ( )

**371. AMBULANCE CERTIFICATION.**

**01. Certification Required**. In order for a licensed EMR to serve as the sole patient care provider who is delivering patient care, the EMR must possess a current ambulance certification issued by the EMS Bureau. ( )

**02. Certification Requirements**. A licensed EMR applying for and meeting the requirements defined in this section of rule will be issued an ambulance certification. The requirements for ambulance certification are: ( )

**a.** Have a valid, unrestricted EMR license; ( )

**b.** Have successfully completed an ambulance certification training program, examination, and credentialing; ( )

**03. Duration**. Ambulance certifications are valid as long as the license holder is continually licensed. ( )

**04. Disciplinary and Corrective Action**. The EMS Bureau may impose disciplinary and corrective actions on an ambulance certification based on the procedures for administrative license actions described in Sections 500 - 579 of these rules. ( )

**372. EMS BUREAU REVIEW OF APPLICATIONS.**

**01. Review of License Applications**. The EMS Bureau reviews each application for completeness and accuracy. Random applications are selected for audit by the EMS Bureau. Applications will also be audited when information declared on the application appears incomplete, inaccurate, or fraudulent. ( )

**02. Expiration While Under Review**. A personnel license does not expire while under review by the EMS Bureau, provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline. ( )

**373. -- 374. (RESERVED)**

**SUBAREA C2: CONTINUING EDUCATIONAL AND SKILLS PROFICIENCY REQUIREMENTS FOR PERSONNEL LICENSURE
(Sections 375-399)**

**375. CONTINUING EDUCATION AND SKILLS PROFICIENCY.**

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

**02. Documentation**. Licensed personnel must maintain documentation of all continuing education as follows: ( )

**a.** An EMR and EMT must maintain documentation of continuing education for four (4) years. ( )

**b.** An AEMT and Paramedic must maintain documentation of continuing education for three (3) years. ( )

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

**a.** Within the same level of licensure, all transition education may count on an hour-for-hour basis in the appropriate categories within a single venue. When transition education hours exceed seventy-five percent (75%) of the total continuing education hours required, all continuing education hours can be in a single venue; and ( )

**b.** Education must be completed during a single license duration. ( )

**376. CONTINUING EDUCATION RECORDS ARE SUBJECT TO AUDIT.**
The EMS Bureau reserves the right to audit continuing education records to verify that renewal requirements have been met. ( )

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

**a.** Name of attendee; ( )

**b.** Date education was completed; and ( )

**c.** Education sponsor or instructor. ( )

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

**a.** Signed course roster; ( )

**b.** Certificate of completion; ( )

**c.** Electronic verification of completion of on-line course; ( )

**d.** Verification of attendance from EMS conference; ( )

**e.** Verification or proof of providing instruction; or ( )

**f.** Agency training record validated by agency administrator. ( )

**377. -- 379. (RESERVED)**

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

**01. Airway**. ( )

**02. Cardiovascular**. ( )

**03. Trauma**. ( )

**04. Medical**. ( )

**05. Operations**. ( )

**06. Pediatrics**. ( )

**381. -- 384. (RESERVED)**

**385. VENUES OF CONTINUING EDUCATION FOR PERSONNEL LICENSURE RENEWAL.** Continuing education for all personnel must be from one or more of the following venues for each licensure period. ( )

**01. Structured Classroom Sessions**. ( )

**02. Refresher Programs**. Refresher programs that revisit the original curriculum and have an evaluation component. ( )

**03. Nationally Recognized Courses**. ( )

**04. Regional and National Conferences**. ( )

**05. Teaching Continuing Education Topics**. The continuing education topics being taught must fall under the categories in Section 380 of these rules. ( )

**06. Agency Medical Director-Approved Self-Study or Directed Study**. This venue is not allowed to be used for a certificate of eligibility continuing education requirement. ( )

**07. Case Reviews and Grand Rounds**. ( )

**08. Distributed Education**. This venue includes distance and blended education using computer, video, audio, Internet, and CD resources. ( )

09. Journal Article Review with an Evaluation Instrument. ( )

10. Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication. ( )

11. Simulation Training. ( )

12. Evaluator at a State or National Psychomotor Exam. ( )

386. -- 389. (RESERVED)

390. LICENSE RENEWAL CONTINUING EDUCATION REQUIREMENTS.
A license renewal candidate must provide documentation of the following continuing education hours provided in the table below during each licensure period.

| LICENSE RENEWAL CONTINUING EDUCATION (CE) REQUIREMENTS | | | | |
|---|---|---|---|---|
| CE CATEGORIES | EMR<br>15 TOTAL CE Hours | EMT<br>36 TOTAL CE Hours | AEMT<br>40 TOTAL CE Hours | PARAMEDIC<br>60 TOTAL CE Hours |
| An individual must complete at least 1 hour of continuing education in each category. | | | | |
| Airway, Respiration, and Ventilation<br>Cardiovascular<br>Trauma<br>Medical<br>Operations: Landing Zone & Extrication Awareness | No more than 5 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal. | No more than 12 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal. | No more than 13 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal. | No more than 20 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal. |
| Pediatrics | 2 hours | 4 hours | 6 hours | 8 hours |

( )

391. -- 394. (RESERVED)

395. LICENSE RENEWAL SKILLS PROFICIENCY REQUIREMENTS.
A license renewal candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the licensure level consistent with the scope of practice provided in the incorporated EMSPC Standards Manual. ( )

396. -- 399. (RESERVED)

## SUBPART D – EMERGENCY MEDICAL SERVICES: EDUCATION, INSTRUCTOR, AND EXAMINATION REQUIREMENTS (Sections 400 - 499)

**400. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS EDUCATION PROGRAM AND EXAM PERSONNEL.**
All personnel associated with an EMS education program or exam must adhere to the following standards: ( )

**01. Professional Conduct**. EMS education program and exam personnel maintain the knowledge necessary to competently teach curriculum and evaluate students as outlined in the Idaho EMS Education Standards. EMS education program and exam personnel refrain from performing their duties while under the influence of alcohol, any illegal substance, or a legal drug or medication causing impairment of function. ( )

**02. Professional Integrity**. EMS education program and exam personnel: ( )

**a.** Cannot submit false information in any report, application, or documentation to the EMS Bureau, the National Registry of Emergency Medical Technicians, or any other governing, credentialing, accrediting, or certifying authority. ( )

**b.** Comply with state and federal laws relating to the confidentiality of student records; and ( )

**c.** Refrain from conduct demonstrating a professional conflict of interest during the performance of their duties as EMS educators or evaluators. ( )

**03. Respectful Behavior**. EMS education program and exam personnel ensure just and equitable treatment for all potential and current students and refrain from conduct involving EMS education or evaluation that is in violation of any current Idaho or federal anti-discrimination law or administrative rule. ( )

**401. -- 404. (RESERVED)**

**SUBAREA D1: EMS EDUCATION PROGRAMS
(Sections 405-414)**

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

**406. INSPECTION OF EMS EDUCATION PROGRAMS.**
Representatives of the EMS Bureau are authorized to enter an EMS education facility at reasonable times for the purpose of assuring that an EMS education program meets the provisions of these rules. ( )

**407. EMS EDUCATION PROGRAM ELIGIBILITY.**
The following entities are eligible for approval as an EMS Education Program: ( )

**01. EMS Agency**. A licensed Idaho EMS agency, or applicant for agency licensure, that has met all of the agency licensure requirements in these rules with the exception of the personnel requirements in the case of an applicant agency. ( )

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

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

**04. Hospital**. An Idaho hospital as defined in IDAPA 16.03.14, "Hospitals." ( )

**408. EMS EDUCATION PROGRAM APPROVAL REQUIREMENTS.**
The following requirements must be met in order to be approved as an EMS Education Program: ( )

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

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

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

**c.** Utilize personnel to fill the roles as defined in these rules; ( )

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

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

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

**409. EMS EDUCATION PROGRAM ADMINISTRATION.**
Each EMS Education Program must: ( )

**01. Register And Maintain Program Information With The Ems Bureau And The National Certifying Body**. ( )

**02. Respond To All Program-specific Ems Bureau Inquiries Within Fifteen (15) Days**. ( )

**03. Submit Supporting Documentation Requested During An Audit To The Ems Bureau Within Twenty-one (21) Days Of The Request**. ( )

**04. Ensure That All Program Personnel Are Familiar With And Conduct Business According To These Rules**. ( )

**05. Notify The Ems Bureau Within Fifteen (15) Days Of Any Sanction Taken Against An Instructor That Affects Their Ability To Teach For The Program**. ( )

**410. EMS EDUCATION PROGRAM COURSE ADMINISTRATION.**

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

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

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

**c.** Ensure the majority of initial education is taught by certified EMS instructors. ( )

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

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

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

**c.** Provide a formal summative evaluation that includes a variety of clinical behaviors and judgements

at the end of the course to measure the student's mastery of the objectives of the approved curriculum. ( )

**411. EMS EDUCATION PROGRAM COURSE DOCUMENTATION.**
Each EMS Education Program must submit the following documentation to the EMS Bureau as described below, in the format provided by the EMS Bureau, and retain it for a minimum of three (3) years: ( )

**01. Course Registration Number (CRN) issued by the EMS Bureau**. ( )

**02. Course Roster**. ( )

**03. Course Completion Record With Completion Status And Date Of Completion For All Students**. ( )

**04. EMR and EMT Programs**. Results of formal summative evaluation. ( )

**05. AEMT and Paramedic Programs**. Proposed date and location of the psychomotor examination within the timeline required by the national certifying body. ( )

**412. -- 414. (RESERVED)**

**SUBAREA D2: CRITERIA FOR EMS EDUCATION
(Sections 415-419)**

**415. INITIAL EMS EDUCATION REQUIREMENTS.**

**01. Consistency with Scope of Practice**. All curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the incorporated EMS Physician Commission Standards Manual which aligns with the clinical level of the course. ( )

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

**416. -- 419. (RESERVED)**

**SUBAREA D3: EMS EDUCATION PROGRAM PERSONNEL REQUIREMENTS, QUALIFICATIONS, AND RESPONSIBILITIES
(Sections 420-424)**

**420. REQUIRED PERSONNEL FOR EMS EDUCATION PROGRAMS.**
Each program must: ( )

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

**02. Teaching Faculty**. Identify a sufficient number of teaching faculty who meet the qualifications described below. ( )

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

**421. EMS EDUCATION PROGRAM PERSONNEL QUALIFICATIONS.**

**01. Program Director**. Program directors must: ( )

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

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

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

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

**04. Course Physician**. Course physicians must: ( )

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

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

**422. EMS EDUCATION PROGRAM PERSONNEL RESPONSIBILITIES.**
An individual can have multiple personnel responsibilities, but must meet the applicable personnel requirements in these rules and fulfill all the responsibilities of each position they fill. ( )

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

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

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

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

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

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

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

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

**03. Course Physician**. The course physician is responsible for oversight of all medical aspects of instruction. ( )

**423. -- 424. (RESERVED)**

## SUBAREA D4: EMS INSTRUCTOR CERTIFICATION (SECTIONS 425 - 429)

**425. EMS INSTRUCTOR CERTIFICATION REQUIREMENTS.**

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

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

**a.** Pass an Idaho criminal history and background check; ( )

**b.** Complete an EMS Bureau-sponsored EMS Education Program Orientation Course within the preceding twenty-four (24) months; ( )

**c.** Complete a course that meets the requirements of an Adult Methodology Course. See a list of courses and required course content online at http://www.IdahoEMS.org; ( )

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

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

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

**426. EMS INSTRUCTOR CERTIFICATE RENEWAL.**
An individual applying for and meeting the EMS instructor certificate requirements defined in this rule will be issued a renewed EMS instructor certificate. An individual seeking to renew an EMS instructor certificate must: ( )

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

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

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

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

**427. LAPSED EMS INSTRUCTOR CERTIFICATE.**

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

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

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

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

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

**428. -- 429. (RESERVED)**

## SUBAREA D5: EMS EXAMINATIONS
## (Sections 430 - 499)

**430. STANDARDIZED EMS EXAMINATIONS.**
A graduate of an EMS course must successfully complete psychomotor and cognitive examinations in order to qualify for EMS personnel licensure. ( )

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

**a.** Pass the end-of-course examination described in these rules. ( )

**b.** Pass a level-appropriate EMS Bureau-approved psychomotor examination. ( )

**02. AEMT and Paramedic Psychomotor Examination**. The psychomotor examination requirement for AEMT and Paramedic course graduates can only be met by passing a formal EMS Bureau-approved psychomotor examination. ( )

**03. Cognitive Examination**. The cognitive examination requirement for all levels of course graduates can only be met by passing the EMS Bureau-approved cognitive examination. ( )

**431. EMS EXAM APPLICATIONS.**
An organization other than the educational program that wishes to host a EMS Bureau-approved examination must notify the EMS Bureau at least sixty (60) days in advance of the proposed exam date. Educational programs must notify the EMS Bureau under Section 411 of these rules. ( )

**432. -- 499. (RESERVED)**

## SUBPART E – COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS
## (Sections 500 - 599)

**500. PEER REVIEW TEAM.**
The EMS Bureau may elect to conduct a peer review for an alleged statute or rule violation when it determines that a peer review is an appropriate action. The EMS Bureau will determine who serves on a peer review team. ( )

**501. MEMBERS OF A PEER REVIEW TEAM.**
The peer review team will consist of four (4) team members selected by the EMS Bureau as appropriate to the case being considered from the following: ( )

**01. Licensed Personnel**. EMS personnel licensed at, or above, the license level of the subject; or ( )

**02. Agency Administrator**. EMS agency administrator; or ( )

**03. Training Officer**. EMS agency training officer; or ( )

**04. Course Coordinator**. Course coordinator of an EMS Bureau-approved education program or course; or ( )

**05. Instructor**. EMS Bureau-certified EMS instructor; and ( )

**06. Chairman of Peer Review Team**. Each peer review team will be chaired by a licensed Idaho EMS physician as follows: ( )

**a.** An Idaho EMS Physician Commissioner for cases involving EMS personnel; or ( )

**b.** An Idaho EMS agency medical director for cases involving an EMS agency; or ( )

**c.** An Idaho EMS Bureau-approved education program or course sponsoring physician for cases involving educators who are not licensed EMS personnel. ( )

**502. QUALIFICATIONS REQUIRED OF A PEER REVIEW TEAM MEMBER.**
An individual, serving as a member of an EMS peer review team, must have successfully completed an orientation to EMS-related statute, rules and procedures and have signed confidentiality and conflict of interest agreements provided by the EMS Bureau. ( )

**503. -- 504. (RESERVED)**

**SUBAREA E1: REPORTING OF COMPLAINTS AND SUSPECTED VIOLATIONS (Sections 505 - 519)**

**505. COMPLAINT SUBMITTED WHEN A VIOLATION IS SUSPECTED.**
Complaints must be submitted in writing on a complaint intake form found online at: http://www.idahoems.org. ( )

**506. -- 509. (RESERVED)**

**510. REPORTING SUSPECTED VIOLATION.**

**01. Suspected Violations**. Any person may report a suspected violation of any law or rule governing EMS. ( )

**02. Report Violation**. To report a suspected violation, contact the EMS Bureau, see online at: http://www.idahoems.org. ( )

**511. ANONYMOUS COMPLAINTS.**
Anonymous complaints are accepted; however, the inability to collect further information from the complainant may hinder the progress of the investigation. ( )

**512. -- 519. (RESERVED)**

**SUBAREA E2: INVESTIGATION OF COMPLAINTS AND SUSPECTED VIOLATIONS (Sections 520 - 529)**

**520. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.**
An official investigation will be initiated when the any of the following occurs: ( )

**01. Complaint with Allegations**. A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS. ( )

**02. Discovery of Potential Violation of Statute or Administrative Rule**. EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS. ( )

**521. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.**
The EMS Bureau may impose administrative actions, including denial, revocation, suspension, or retention under conditions specified in these rules. Administrative actions may be imposed on any of the following: the holder of, or an applicant or candidate for, an EMS license, certificate, education program approval, or recognition. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. ( )

**522. -- 524. (RESERVED)**

**525. REFUSAL TO PARTICIPATE IN AN INVESTIGATION.**
The refusal to participate by the subject will not prohibit full investigation or a peer review, nor prevent potential

administrative license action. ( )

**526. SURRENDER OR LAPSE OF LICENSE.**
Surrender or lapse of a license will not prohibit full investigation with the potential consequence of EMS Bureau imposing a formal administrative license action or fine. ( )

**527. INVESTIGATION CONFIDENTIALITY.**

**01. Informal Resolution**. Informal resolution of complaints or non-compliance by guidance or negotiated resolution is not public information. ( )

**02. Administrative License Action**. Preliminary investigations and documents supplied or obtained in connection with them are confidential until a formal notice of administrative license action is issued. ( )

**528. NOTICE OF THE FINAL DISPOSITION OF AN INVESTIGATION.**

**01. Subject**. The EMS Bureau will send notification to the last known address of the subject of the disposition of the investigation, including any pending or current administrative actions. ( )

**02. Other Jurisdiction for EMS Personnel**. A copy of administrative action imposed on EMS personnel will be sent to each agency of affiliation, agency medical director, the National Practitioners Data Base, and the National Registry of Emergency Medical Technicians. ( )

**03. Other Jurisdictions for EMS Agencies**. A copy of administrative action or nature of fines imposed on EMS agencies will be sent to the agency governing authorities and the agency medical director. ( )

**04. Other Jurisdictions for Educational Programs or Instructors**. A copy of any administrative action imposed on an EMS educational program or instructor may be sent to the state Board of Education, the sponsoring physician, the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP), and the National Registry of Emergency Medical Technicians (NREMT). ( )

**528. -- 529. (RESERVED)**

**SUBAREA E3: DISCIPLINARY AND CORRECTIVE ACTIONS
(Sections 530 - 599)**

**530. ACTIONS RESULTING FROM INVESTIGATIONS.**
The following actions may be imposed upon the subject of an investigation by the EMS Bureau without peer review: ( )

**01. Letter of Guidance**. The EMS Bureau may issue a letter of guidance, directing the subject of the investigation to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public, profession, or EMS system occurred. The subject of the investigation must show a willingness to become compliant and correct the issue within thirty (30) days of receipt of the personnel guidance letter. ( )

**02. Warning Letter**. The EMS Bureau may issue a warning letter for a first offense where an unlicensed individual is providing patient care in violation of Section 56-1020, Idaho Code. ( )

**03. Negotiated Resolution**. The EMS Bureau may negotiate a resolution with the subject of an investigation where allegations of misconduct or medical scope of practice non-compliance, if found to be true, did not cause, or is not likely to cause, injury or harm to the public, profession, or EMS system. The issue must be resolved and corrected within thirty (30) days of the negotiated resolution or settlement agreed to by both the subject of the investigation and the EMS Bureau. ( )

**a.** Negotiated resolution participants will include the subject of the investigation, EMS Bureau staff and other parties deemed appropriate by the EMS Bureau. ( )

**b.** During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon. ( )

**c.** When the remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. ( )

**531. -- 534. (RESERVED)**

**535. PEER REVIEW.**
The EMS Bureau may elect to conduct a peer review for alleged statute or rule violations when it determines that a peer review is an appropriate action, or a negotiated resolution or settlement agreement described in these rules, is not reached. The peer review is conducted as follows: ( )

**01. Review of Case by Peer Review Team**. The peer review team reviews the case details, subject's background, affiliation, licensure history, associated evidence, and documents, and then considers aggravating and mitigating circumstance as follows: ( )

**a.** Aggravating circumstances can include prior or multiple offenses, vulnerability of victim, obstruction of the investigation, and dishonesty. ( )

**b.** Mitigating circumstances can include absence of prior offenses, absence of dishonest or selfish motive, timely effort to rectify situation, interim successful rehabilitation, misdirection per agency protocol, or medical direction. ( )

**02. Subject Given Opportunity to Respond**. The subject of the investigation will be given the opportunity to respond in writing, by teleconference, or at the option of the EMS Bureau, in person to the alleged violation. ( )

**03. Evaluation of Evidence**. The peer review team will evaluate the evidence and make a majority decision of the finding for each alleged statute, rule, or standards violation, including any additional detected violations. ( )

**04. Recommend Action**. The peer review team will recommend actions to the EMS Bureau. If subject is found to have violated statutes, rules, or standards, the recommendations may include the following: ( )

**a.** Administrative license action, time frames, conditions, and fines, if imposed, on an EMS agency; ( )

**b.** Administrative license action, time frames, and conditions, if imposed, on EMS personnel; or ( )

**c.** Administrative action, time frames, conditions, and fines, if imposed, on an EMS approved education program or instructor certificate. ( )

**536. -- 539. (RESERVED)**

**540. ADMINISTRATIVE ACTIONS.**
The EMS Bureau may impose the following administrative actions: ( )

**01. Deny Application**. The EMS Bureau may deny an application for an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or an EMS instructor certification: ( )

**a.** When the application is not complete or the applicant does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, the incorporated EMSPC Standards Manual, these rules;

or ( )

**b.** For any reason that would justify an administrative action according to Section 521 of these rules. ( )

**02. Refuse to Renew**. The EMS Bureau may refuse to renew an EMS personnel license, EMS personnel certificate of eligibility, EMS agency license, EMS education program approval, or EMS instructor certification: ( )

**a.** When the renewal application is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, the incorporated EMSPC Standards Manual, these rules; or ( )

**b.** Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property; or ( )

**c.** For any reason that would justify an administrative action according to Section 521 of these rules. ( )

**03. Retain with Probationary Conditions**. The EMS Bureau may allow the holder of an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification to retain a license, approval, or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. ( )

**04. Suspend**. The EMS Bureau may suspend an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification for: ( )

**a.** A period of time up to twelve (12) months, with or without conditions; or ( )

**b.** Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. ( )

**05. Revoke**. The EMS Bureau may revoke an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification when: ( )

**a.** A peer review team recommends revocation; or ( )

**b.** The license or certificate holder is found to no longer be eligible for criminal history clearance. ( )

**c.** The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which an EMS agency provides emergency prehospital response upon revocation of an EMS agency license. ( )

**06. Review of Administrative Actions by the EMS Physician Commission**. The EMS Physician Commission must review, at their next available meeting, administrative actions taken by the EMS Bureau. ( )

**541. -- 544. (RESERVED)**

**545. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.**
In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: ( )

**01. Operating An Unlicensed EMS Agency**. Operating without a license required in Sections 100 - 299 of these rules including: ( )

**a.** Failure to obtain an initial license; ( )

**b.** Failure to obtain a license upon change in ownership; or ( )

**c.** Failure to renew a license and continues to operate as an EMS agency. ( )

**02. Unlicensed Personnel Providing Patient Care**. Allowing an unlicensed individual to provide patient care without first obtaining an EMS personnel license at the appropriate level for the EMS agency. ( )

**03. Failure to Respond**. Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, except when the responder reasonably determines that: ( )

**a.** There are disaster conditions; ( )

**b.** Scene safety hazards are present or suspected; or ( )

**c.** Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. ( )

**04. Unauthorized Response by EMS Agency**. Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in these rules. ( )

**05. Failure to Allow Inspections**. Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in these rules. ( )

**06. Failure To Correct Unacceptable Conditions**. Failure of the EMS agency to correct unacceptable conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: ( )

**a.** Failure to maintain an EMS vehicle in a safe and sanitary condition; ( )

**b.** Failure to have available minimum EMS Equipment; ( )

**c.** Failure to correct patient or personnel safety hazards; or ( )

**d.** Failure to retain an EMS agency medical director: ( )

**07. Failure to Report Patient Care Data**. Failure to submit patient care data as required in these rules. ( )

## 546. FINES IMPOSED ON EMS AGENCY.

In addition to administrative license action allowed by statute and rule, a fine may be imposed by the EMS Bureau upon the recommendation of a peer review team. Fines are imposed on licensed EMS agency as a consequence of agency licensure violations. ( )

**01. Maximum Amount of a Fine**. A fine may not exceed one thousand dollars ($1,000) for each specified violation. ( )

**02. Fines Levied After Peer Review**. The EMS Bureau may levy a fine against an EMS agency following a peer review that has a majority decision on finding and outcomes, and includes a fine be imposed as part of the recommended action. ( )

**03. Table for Maximum Fine Amount**. The maximum amount of a fine that may be imposed on an

EMS agency for certain violations listed in Section 545 of these rules are provided in the table below:

| EMS AGENCY FINE AMOUNT FOR VIOLATIONS | | |
|---|---|---|
| **Rule Violation Subsection** | **TYPE OF VIOLATION** | **Maximum Fine (each violation)** |
| **340.01.** | **Operating an Unlicensed EMS Agency.**<br>**a.** Failure to obtain an initial license:<br>**b.** Failure to obtain a license upon change of ownership:<br>**c.** Failure to successfully renew a license: | <br>$1000<br>$500<br>$500 |
| **340.02.** | **Unlicensed EMS Personnel Providing Patient Care.** | $500 |
| **340.03.** | **Failure to Respond.** | $750 |
| **340.04.** | **Unauthorized Response by EMS Agency.**<br>Licensed EMS agency responds to a request for service which deviates from or exceeds those authorized by the EMS agency license. | $500 |
| **340.05.** | **Failure to Allow an Inspection of an EMS Agency.** | $500 |
| **340.06.** | **Failure to Correct Unacceptable Conditions.**<br>**a.** Failure to maintain an EMS vehicle in a safe and sanitary condition:<br>**b.** Failure to have available minimum EMS equipment:<br>**c.** Failure to correct patient or personnel safety hazards:<br>**d.** Failure to retain an EMS agency medical director: | <br>$250<br>$250<br>$250<br>$500 |
| **340.07.** | **Failure to Report Patient Care Data.** | $500 |

( )

**547. COLLECTED FINES.**
Money collected from EMS agency fines will be deposited into the Emergency Medical Services Fund III provided for in Section 56-1018B, Idaho Code, a dedicated fund account for the purpose of providing grants to acquire vehicles and equipment for use by emergency medical services personnel in the performance of their duties. ( )

**548. -- 549. (RESERVED)**

**550. REINSTATEMENT FOLLOWING REVOCATION.**
An application for any revoked license, certificate, or educational program approval, may be filed with the EMS Bureau no earlier than one (1) year from the date of the revocation. ( )

**01. Peer Review for Reinstatement**. The EMS Bureau will conduct a peer review to consider the reinstatement application. ( )

**02. Recommendation of Peer Review Team**. The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. ( )

**03. Reinstatement Determination**. The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. ( )

**a.** Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement requirements in these rules. ( )

**b.** Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in these rules. ( )

**551. -- 599. (RESERVED)**

## SUBPART F – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL (Sections 600 - 699)

**600. TSE COUNCIL.**
Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee and is responsible for duties described under Section 56-1028, Idaho Code. ( )

**601. TSE REGIONS.**
Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the TSE Standards Manual. ( )

**602. REALIGNMENT OF TSE REGION.**
The TSE Council may realign a region by initiation of the TSE Council, or at the request of a regional TSE committee, a county or local government entity within the region, a TSE designated center, or a licensed EMS agency within the region. ( )

**01. Requesting Entity**. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request that includes: ( )

**a.** Existing patient routing patterns used by both EMS agencies and health care centers; ( )

**b.** Distances and transport times involved in patient routing patterns; ( )

**c.** A list of all entities affected by the request; ( )

**d.** A list of all other licensed health care facilities and licensed EMS agencies in the county; and ( )

**e.** Documentation that all affected regional TSE committees are agreeable to the realignment. ( )

**02. Copies of Request**. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. ( )

**03. TSE Decision**. The TSE Council will evaluate the request for realignment based on the impact to patient care and will notify all parties of the council's decision. ( )

**603. REGIONAL TSE COMMITTEES.**
The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. ( )

**604. (RESERVED)**

**605. DESIGNATION OF TSE CENTERS -- CRITERIA.**
Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI designation criteria established in the TSE Standards Manual. ( )

**606. TRAUMA DESIGNATION CENTERS.**

To be a TSE designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ( )

**607. STROKE DESIGNATION CENTERS.**
To be a TSE designated Level I, II+ (Thrombectomy), II, or III Stroke Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ( )

**608. STEMI DESIGNATION CENTERS.**
To be a TSE designated Level I+ (Cardiogenic Shock), I or II STEMI Center, a facility must meet or exceed required standards published for state designation in the TSE Standards Manual. ( )

**609. (RESERVED)**

**610. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.**

**01. Application**. A facility applying for initial TSE designation must apply along with applicable fees for each designation it is requesting. Application process and requirements are provided in the TSE Standards Manual. ( )

**02. Initial Designation**. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate site survey based on the TSE Standards Manual. ( )

**611. -- 619. (RESERVED)**

**620. TSE DESIGNATION -- LENGTH OF DESIGNATION.**
A TSE center will be designated for a period of three (3) years unless the designation is rescinded by the TSE Council for noncompliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. ( )

**621. RENEWAL OF TSE DESIGNATION.**
A TSE center must submit its renewal application and applicable fees no later than three (3) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the site survey if the delay is through no fault of renewing center. ( )

**622. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.**
Any TSE designated center that has a loss of certification or licensure must immediately notify the TSE Council. ( )

**623. -- 624. (RESERVED)**

**625. DESIGNATION AND TSE SITE SURVEY FEES.**

**01. Application With National Verification**. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections 625.03 through 625.05 of this rule. ( )

**02. Application Without National Verification**. An applicant who requires a TSE site survey prior to designation is required to pay the applicable site survey fee at the time of application. TSE designation and site survey fees are not to exceed those listed in Subsections 625.03 through 625.05 of this rule. ( )

**03. Trauma Designation and TSE Site Survey Fees**.

| TRAUMA DESIGNATIONS 625.03 | DESIGNATION FEE 3-year / Annual (Not to exceed) | TSE SITE SURVEY FEE (Not to exceed) |
|---|---|---|
| LEVEL I | $45,000 / $15,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL II | $36,000 / $12,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL III | $24,000 / $8,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL IV | $12,000 / $4,000 | $1,500 / Not applicable with national or acceptable state verification |
| LEVEL V | $3,000 / $1,000 | $1,500 |
| PEDIATRIC LEVEL I and LEVEL II | $36,000 / $12,000 | No fee. Must be ACS verified |

( )

**04. Stroke Designation and TSE Site Survey Fees.**

| STROKE DESIGNATIONS 625.04 | DESIGNATION FEE 3-year / Annual (Not to exceed) | TSE SITE SURVEY FEE (Not to exceed) |
|---|---|---|
| LEVEL I | $21,000 / $7,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL II+ and LEVEL II | $12,000 / $4,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL III | $1,500 / $500 | $1,500/ Not applicable with national or acceptable state verification |

( )

**05. STEMI Designation and TSE Site Survey Fees.**

| STEMI DESIGNATIONS 625.05 | DESIGNATION FEE 3-year / Annual (Not to exceed) | TSE SITE SURVEY FEE (Not to exceed) |
|---|---|---|

| | | |
|---|---|---|
| LEVEL I+ and LEVEL I | $21,000 / $7,000 | $3,000 / Not applicable with national or acceptable state verification |
| LEVEL II | $1,500 / $500 | $1,500 / Not applicable with national or acceptable state verification |

( )

**06. Designation Fee Payment**. After completion of the TSE site survey, the TSE Council will notify the applicant facility of the designation determination by letter. The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the EMS Bureau's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are due to the EMS Bureau within thirty (30) days of the date of the invoice to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation. ( )

**626. -- 629. (RESERVED)**

**630. TSE SITE SURVEY.**
The TSE Council will conduct a site survey of each TSE designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the site survey with the designated center in a timely manner. ( )

**631. TSE SITE SURVEY -- GENERAL REQUIREMENTS.**
The TSE site survey will consist of and consider each facility's application and compliance with the TSE Standards Manual for the specific type of designation being requested. The general requirements in Subsections 631.01 through 635.06 of this rule apply: ( )

**01. Survey Team Member Requirements**. Survey team members will meet the following inclusion criteria: ( )

**a.** A physician surveyor must: ( )

i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; ( )

ii. Be board-certified in the specialty area being represented on the review team; ( )

iii. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ( )

iv. Have no conflict of interest with the facility under review; and ( )

v. Be from outside the region of the center being verified. ( )

**b.** A nurse surveyor or program manager must: ( )

i. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ( )

ii. Have no conflict of interest with the facility under review; and ( )

iii. Be from outside the region of the center being verified. ( )

**02. Communication Between Surveyors and Facilities**. To standardize ethical practice, all

communication between surveyors and facilities prior to the survey must be facilitated by TSE program staff. ( )

**03. Survey Team Member Notification of Potential Conflict of Interest**. Upon being assigned to a site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. ( )

**04. Notification to Applicant of Survey Team Members**. The TSE Council will provide the applicant with the names of the site survey team once they have been selected and at least thirty (30) calendar days prior to the scheduled survey. ( )

**05. Facility Notification to TSE Council of Potential Conflict of Interest**. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. ( )

**06. Notification of Decision for Conflict of Interest**. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the survey team member in question. No person who has a substantial conflict of interest in the operation of any facility under review will participate in the site survey of the applicant. ( )

**632. SITE SURVEY -- SURVEY TEAM COMPOSITION.**
The TSE Council will select a site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the TSE Standards Manual. ( )

**633. SITE SURVEY -- ADDITIONAL SURVEYS.**
The TSE Council may conduct additional, announced or unannounced, site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. ( )

**634. (RESERVED)**

**635. DESIGNATION DECISION.**

**01. Summary Report**. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation upon completion of the site survey. ( )

**02. Written Report**. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the survey team's recommendation. ( )

**03. Final Determination**. The TSE Council's final determination regarding each application will be based upon consideration of: ( )

**a.** The application; ( )

**b.** The evaluation and recommendations of the site survey team; ( )

**c.** The best interests of patients; and ( )

**d.** Any unique attributes or circumstances that make the facility capable of meeting special community needs. ( )

**04. Provisional Designation**. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: ( )

**a.** Resolve the deficiencies within the time specified by the TSE Council; ( )

**b.** Submit documentation that the deficiency has been resolved; and ( )

**c.** If necessary, submit to an additional focused site survey and pay the applicable survey fees. ( )

**05. Denial**. If the TSE Council denies an applicant a designation, the provisions of Title 67, Chapter 52, Idaho Code will apply. ( )

**636. -- 639. (RESERVED)**

**640. WAIVERS.**

**01. Granting a Waiver**. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. ( )

**02. Waiver Application**. A center requesting a waiver must submit a completed TSE Waiver Application Form. The TSE Council may require the applicant to provide additional information, and the application will not be considered complete until all required information is provided. ( )

**03. Post Notice**. A center requesting a waiver must post a notice of the waiver application at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: ( )

**a.** Include a meaningful description of the reason for the waiver; ( )

**b.** Be posted on the date the waiver application is submitted; ( )

**c.** Remain posted for a minimum of thirty (30) calendar days; and ( )

**d.** Describe where and to whom comments may be submitted during the thirty (30) calendar days. ( )

**04. Notice Distribution**. When the notice is posted, the center must distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. ( )

**05. Waiver Application Submission**. To be placed on the agenda, the completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting. Applications submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on the next agenda. ( )

**06. Waiver Application Distribution**. The TSE Council will make available the public notice of the TSE Council meeting regarding the waiver application to all TSE designated centers. ( )

**07. Waiver Application Review**. The regional TSE committee must review the request and make recommendations to the TSE Council. The TSE Council must decide and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. ( )

**08. Waiver Conditions**. When a waiver is granted, the TSE Council must: ( )

**a.** Specify the terms and conditions of the waiver; ( )

**b.** Specify the duration of the waiver; duration will not exceed the designation period for that center or three (3) years, whichever is shorter; and ( )

**c.** Require the submission of progress reports from the center that was granted a waiver. ( )

**09. Waiver Renewal**. A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE Council no less than three (3) months prior to the expiration of the waiver. ( )

**10.** **Waiver Revocation**. The TSE Council may revoke or suspend a waiver when it determines: ( )

**a.** That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; ( )

**b.** The applicant has provided false or misleading information in the waiver application; ( )

**c.** The applicant has failed to comply with conditions of the waiver; or ( )

**d.** That a change in federal or state law prohibits continuation of the waiver. ( )

**11.** **Notification and Appeal**. When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the appeal procedure under Title 67, Chapter 52, Idaho Code. Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. ( )

**641. -- 644. (RESERVED)**

**645. DENIAL AND MODIFICATION.**

**01.** **Denial**. The TSE Council may deny an initial or renewal application for a center's designation when a center: ( )

**a.** Does not meet the criteria for designation required in these rules; ( )

**b.** Application or accompanying documents contain false statements of material facts; ( )

**c.** Refuses to allow any part of a site survey; ( )

**d.** Fails to comply with or to successfully complete a plan of correction, or ( )

**e.** Is substantially noncompliant with any TSE rules. ( )

**02.** **Modification**. When a center fails to meet the criteria at the level of designation for which it applied or opts to surrender its designation, the TSE Council may recommend a designation at a lesser level described in Section 647 of these rules, or a complete revocation of state designation. This action, unless agreed to by the applicant, will represent a denial of the application. ( )

**03.** **Notification and Appeal**. When the TSE Council denies an application for designation, the TSE Council must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the appeal procedure under Title 67, Chapter 52, Idaho Code. ( )

**646. REVOCATION AND SUSPENSION.**

**01.** **Revocation**. The TSE Council may revoke the designation of a center or a waiver when an owner, officer, director, manager, or other employee: ( )

**a.** Fails or refuses to comply with the provisions of these rules; ( )

**b.** Fails to make annual designation fee payment for those facilities paying yearly; ( )

**c.** Makes a false statement of material fact about the center's capabilities or other pertinent circumstances under investigation for any purposes connected with these rules; ( )

**d.** Prevents, interferes with, or attempts to impede in any way, the work of a TSE Council

representative in implementing or enforcing these rules; ( )

**e.** Falsely advertises, or in any way misrepresents the facility's ability to care for patients based on its designation status; ( )

**f.** Is substantially noncompliant with these rules and has not rectified such noncompliance; ( )

**g.** Fails to provide reports required by the Idaho TSE Registry or the EMS Bureau in a timely and complete fashion; or ( )

**h.** Fails to comply with or complete a plan of correction in the time or manner specified. ( )

**02. Suspension**. The TSE Council may suspend a center's designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public's health, safety, or welfare is endangered. ( )

**03. Notification and Appeal**. When the TSE Council revokes or suspends a center's designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the appeal procedure under Title 67, Chapter 52, Idaho Code. ( )

**647. DESIGNATION AT A LESSER LEVEL.**

**01. Inability to Meet Criteria**. The TSE Council may opt to redesignate a center at a lesser level due to the center's inability to meet current designation criteria, without regard to any waiver previously granted. ( )

**02. Notification and Appeal**. When the TSE Council decides to redesignate a center, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the appeal procedure under Title 67, Chapter 52, Idaho Code. ( )

**648. -- 699. (RESERVED)**

**SUBPART G – IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION (Sections 700 - 999)**

**700. GENERAL PROVISIONS.**

**01. Practice of Medicine**. This chapter does not authorize the practice of medicine or any of its branches by a person not licensed to do so by the Board of Medicine. ( )

**02. Patient Consent**. The provision or refusal of consent for individuals receiving emergency medical services is governed by Title 39, Chapter 45, Idaho Code. ( )

**03. System Consistency**. All EMS medical directors, hospital supervising physicians, and medical clinic supervising physicians must collaborate to ensure EMS agencies and licensed EMS personnel have protocols, policies, standards of care, and procedures that are consistent and compatible with one another. ( )

**701. -- 709. (RESERVED)**

**710. GENERAL DUTIES OF EMS PERSONNEL.**

**01. General Duties**. General duties of EMS personnel include the following: ( )

**a.** Licensed EMS personnel must possess a valid license issued by the EMS Bureau equivalent to or higher than the scope of practice authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

**b.** Licensed EMS personnel must only provide patient care for which they have been trained, based on

curricula or specialized training approved according to these rules or additional training approved by the hospital or medical clinic supervising physician. ( )

**c.** Licensed EMS personnel must not perform a task or tasks within their scope of practice that have been specifically prohibited by their EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

**d.** Licensed EMS personnel that possess a valid credential issued by the EMS medical director, hospital supervising physician, or medical clinic supervising physician are authorized to provide services when representing an Idaho EMS agency, hospital, or medical clinic and under any one (1) of the following conditions: ( )

i. When part of a documented, planned deployment of personnel resources approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician; or ( )

ii. When, in a manner approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, administering first aid or emergency medical attention in accordance with Section 5-330 or 5-331, Idaho Code, without expectation of remuneration; or ( )

iii. When participating in a training program approved by the EMS Bureau, the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

**02. Scope of Practice**. ( )

**a.** The Commission maintains an "EMS Physician Commission Standards Manual" that: ( )

i. Establishes the scope of practice of licensed EMS personnel; and ( )

ii. Specifies the type and degree of medical supervision for specific skills, treatments, and procedures by level of EMS licensure. ( )

**b.** The Commission will consider the United States Department of Transportation's National EMS Scope of Practice Model when preparing or revising the EMSPC Standards Manual; ( )

**c.** The scope of practice established by the Commission determines the objectives of applicable curricula and specialized education of licensed EMS personnel; ( )

**d.** The scope of practice does not define a standard of care, nor does it define what should be done in a given situation; ( )

**e.** Licensed EMS personnel must not provide out-of-hospital patient care that exceeds the scope of practice established by the Commission; ( )

**f.** Licensed EMS personnel must be credentialed by the EMS medical director, hospital supervising physician, or medical clinic supervising physician to be authorized for their scope of practice; ( )

**g.** The credentialing of licensed EMS personnel affiliated with an EMS agency, must not exceed the licensure level of that EMS agency; and ( )

**h.** The patient care provided by licensed EMS personnel must conform to the Medical Supervision Plan as authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )

**711. -- 719. (RESERVED)**

**720. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN QUALIFICATIONS.**

The EMS Medical Director, Hospital Supervising Physician, and Medical Clinic Supervising Physician must: ( )

**01. Accept Responsibility**. Accept responsibility for the medical direction and medical supervision of the activities provided by licensed EMS personnel. ( )

**02. Maintain Knowledge of EMS Systems**. Obtain and maintain knowledge of the contemporary design and operation of EMS systems. ( )

**03. Maintain Knowledge of Idaho EMS**. Obtain and maintain knowledge of Idaho EMS laws, regulations, and standards manuals. ( )

## 721. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN RESPONSIBILITIES AND AUTHORITY.

**01. Documentation of Written Agreement**. The EMS medical director must document a written agreement with the EMS agency to supervise licensed EMS personnel and provide such documentation to the EMS Bureau annually and upon request. ( )

**02. Approval for EMS Personnel to Function**. ( )

**a.** The explicit approval of the EMS medical director, hospital supervising physician, or medical clinic supervising physician is required for licensed EMS personnel under their supervision to provide medical care. ( )

**b.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician may credential licensed EMS personnel under their supervision with a limited scope of practice relative to that allowed by the EMS Physician Commission, or with a limited scope of practice corresponding to a lower level of EMS licensure. ( )

**03. Restriction or Withdrawal of Approval for EMS Personnel to Function**. ( )

**a.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician can restrict the scope of practice of licensed EMS personnel under their supervision when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the Idaho EMS Bureau. ( )

**b.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician can withdraw approval of licensed EMS personnel to provide services, under their supervision, when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the EMS Bureau. ( )

**c.** The EMS medical director, hospital supervising physician, or medical clinic supervising physician must report in writing such restriction or withdrawal of approval within fifteen (15) days of the action to the EMS Bureau in accordance with Section 39-1393, Idaho Code. ( )

**04. Review Qualifications of EMS Personnel**. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document the review of the qualification, proficiencies, and all other EMS agency, hospital, and medical clinic affiliations of EMS personnel prior to credentialing the individual. ( )

**05. Document EMS Personnel Proficiencies**. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document that the capabilities of licensed EMS personnel are maintained on an ongoing basis through education, skill proficiencies, and competency assessment. ( )

**06. Develop and Implement a Performance Assessment and Improvement Program**. The EMS medical director must develop and implement a program for continuous assessment and improvement of services

provided by licensed EMS personnel under their supervision. ( )

**07. Review and Update Procedures**. The EMS medical director must review and update protocols, policies, and procedures at least every two (2) years. ( )

**08. Develop and Implement Plan for Medical Supervision**. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must develop, implement and oversee a plan for supervision of licensed EMS personnel as described in Subsection 722.06 of these rules. ( )

**09. Access to Records**. The EMS medical director must have access to all relevant agency, hospital, or medical clinic records as permitted or required by statute to ensure responsible medical supervision of licensed EMS personnel. ( )

## 722. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.

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

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

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

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

**a.** A designated physician is not present in the anticipated receiving health care facility; and ( )

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

**c.** The physician supervising the PA, as defined in IDAPA 24.33.02, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide direct (on-line) supervision; and ( )

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

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

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

**06. Medical Supervision Plan**. The medical supervision of licensed EMS personnel must be provided in accordance with a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. The requirements for the medical supervision plan are found in the EMSPC Standards Manual. ( )

**07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau**. The agency EMS medical director must submit the medical supervision plan within thirty (30) days of request to the EMS Bureau in a form described in the standards manual. ( )

**a.** The agency EMS medical director must identify the designated clinicians to the EMS Bureau

annually in a form described in the standards manual. ( )

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

**c.** The EMS Bureau must provide the Commission with the medical supervision plans within thirty (30) days of request. ( )

**d.** The EMS Bureau must provide the Commission with the identification of EMS medical directors and designated clinicians annually and upon request. ( )

## 723. PHYSICIAN SUPERVISION IN HOSPITALS AND MEDICAL CLINICS.

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

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

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

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

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

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

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

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

**b.** The physician supervising the PA, as defined in IDAPA 24.33.02, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide supervision; and ( )

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

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

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

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

**724. -- 999. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.01.02 – EMERGENCY MEDICAL SERVICES (EMS) – RULE DEFINITIONS

## DOCKET NO. 16-0102-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003 and 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

IDAPA chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
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**IDAPA 16.01.02 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

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

## DOCKET NO. 16-0103-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003 and 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

IDAPA chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
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**IDAPA 16.01.03 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

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

## DOCKET NO. 16-0105-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003, and 56-1011 through 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

IDAPA chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
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**IDAPA 16.01.05 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

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

## DOCKET NO. 16-0107-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003, and 56-1011 through 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

Chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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**IDAPA 16.01.07 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.01.12 – EMERGENCY MEDICAL SERVICES (EMS) – COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS

## DOCKET NO. 16-0112-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1003, 56-1005, 56-1022, and 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

Chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

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Director
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**IDAPA 16.01.12 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

## DOCKET NO. 16-0201-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1007, 56-1024 through 56-1030, and 57-2003, 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 September 18th, 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:

IDAPA chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
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**IDAPA 16.02.01 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.02.02 – IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

## DOCKET NO. 16-0202-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 56-1013, and 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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:

IDAPA chapters 16.01.02. 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01, and 16.02.02 are being repealed and consolidated into a singular EMS chapter that will be published in this bulletin. The language in chapter 16.01.07 (Personnel Licensure Rules) was updated as part of the Red-Tape Reduction Act.

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

Fees will not be increased as a result of repealing this chapter.

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

There will not be a negative fiscal impact exceeding $10,000 to the state by repealing this chapter.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on chapters 16.01.02. 16.01.03, 16.01.05, 16.01.12, 16.02.01, and 16.02.02 because those chapters are simply being proposed to be repealed and consolidated with all other chapters of EMS. Negotiated rulemaking was conducted for chapter 16.01.07 on April 18th, 2024 and was published on pages 20 through 22 of the April 3rd, 2024 bulletin, Vol. 24-4.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
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**IDAPA 16.02.02 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.02.12 – NEWBORN SCREENING

## DOCKET NO. 16-0212-2401 (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 Section 56-202, Idaho Code, and Sections 39-906, 39-909, and 39-910, Idaho Code.

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

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Wednesday, September 18, 2024**<br>**12:00-1:00 p.m. (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=mca1c94cd6d168f5453c5de6efd5a03bb**<br><br>**Join by meeting number**<br>**Meeting number (access code): 2821 229 7212**<br>**Meeting password: njSjbpUC695 (65752782 when dialing from a phone or video system)**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

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:** Executive Order 2020-01, Zero Based Regulation, requires agencies to review and rewrite chapters every five (5) years on an approved schedule. The purpose of this proposed rulemaking is to comply with this mandate and is scheduled for presentation to the 2025 Legislature. The rule specifies the tests and procedures that must be performed on newborn infants for early detection of metabolic disorders, endocrine disorders, hemoglobin disorders, cystic fibrosis, critical congenital heart disease, and prevention of infant blindness.

**FEE SUMMARY:** There will not be a change to the fee structure for newborn screening.

**FISCAL IMPACT:** There is no anticipated negative fiscal impact with this rule rewrite.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However, two public meetings were posted on Townhall Idaho and received public responses on March 14th, 2024, and April 11th, 2024.

**INCORPORATION BY REFERENCE:** The materials cited are being incorporated by reference as they provide details on industry standards associated with specimen collection, the filter paper collection device, application of blood to the filter paper, and uniform techniques for collecting the best possible specimen for use in dried blood spot specimen screening, and industry standards associated with appropriate pulse-oximetry equipment and uniform screening algorithms to obtain the most accurate results for critical congenital heart disease screening.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 30th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0212-2401**
**(ZBR Chapter Rewrite)**

## 16.02.12 – NEWBORN SCREENING

**000. LEGAL AUTHORITY.**
~~The Idaho Legislature has given the Board of Health and Welfare and the Director of the Department authority to promulgate rules governing the testing of newborn infants for phenylketonuria and other preventable diseases and governing the instillation of an ophthalmic preparation in the eyes of the newborn to prevent Ophthalmia Neonatorum, under~~ Sections 39-906, 39-909, and 39-910, Idaho Code. ~~(3-17-22)~~( )

~~**001. TITLE AND SCOPE.**~~

~~**01. Title**. These rules are titled IDAPA 16.02.12, "Newborn Screening." (3-17-22)~~

~~**02. Scope**. These rules specify the tests and procedures that must be performed on newborn infants for early detection of metabolic disorders, endocrine disorders, hemoglobin disorders, cystic fibrosis, critical congenital heart disease, and prevention of infant blindness.~~ ~~(3-17-22)~~

**001. (RESERVED)**

**002. INCORPORATION BY REFERENCE.**
The Department has incorporated by reference the following documents: (3-17-22)

**01. Dried Blood Spot Specimen Collection ~~on Filter Paper~~ for Newborn Screening ~~Programs; Approved Standard, Fifth~~ Seventh Edition**. The Department has adopted Clinical Laboratory Standards Institute's "Dried Blood Spot Specimen Collection ~~on Filter Paper~~ for Newborn Screening ~~Programs; Approved Standard~~," ~~Fifth Edition, Clinical and Laboratory Standards Institute. 2007 (ISBN 1-56238-644-1)~~ Seventh Edition, 2021 (ISBN 978-68440-108-6), and hereby incorporates this standard by reference. A copy is available for review at the Department, or through the Clinical and Laboratory Standards Institute, 940 West Valley Road, Suite 1400, Wayne, PA 19087-1898, telephone 1-610-688-0100. ~~(3-17-22)~~( )

**02. Critical Congenital Heart Defects (CCHDs)**. The Department has adopted the Critical ~~CHD~~

Congenital Heart Defect Screening Methods as recommended by the American Academy of Pediatrics~~, from "Strategies of Implementing Screening for Critical Congenital Heart Diseases," Kemper, et al., 2011,~~ online resource, and hereby incorporates this material by reference. Copies may be obtained from the Department, see online at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html. ~~(3-17-22)~~( )

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**
The following definitions will apply in the interpretation and enforcement of this chapter: (3-17-22)

**01. Critical Congenital Heart Disease (CCHD)**. CCHD, also known as critical congenital heart defects, is a term that refers to a group of serious heart defects, as defined by the Centers for Disease Control and Prevention (CDC), that are present from birth. (3-17-22)

**02. Department**. The Idaho Department of Health and Welfare. (3-17-22)

**03. Dried Blood Specimen**. A blood specimen obtained from an infant by means of skin puncture, not by means of venipuncture or any other method, that is placed on special filter paper and allowed to dry. (3-17-22)

**04. Hyperalimentation**. The administration of an amount of nutrients beyond minimum normal requirements of the appetite, in an attempt to replace nutritional deficiencies. (3-17-22)

**05. Laboratory**. A medical or diagnostic laboratory certified according to the provisions of the Clinical Laboratory Improvement Amendments of 1988 by the United States Department of Health and Human Services. (3-17-22)

**06. Newborn Screening**. Newborn screening means a laboratory procedure performed on dried blood specimens from newborns to detect those at risk for the diseases specified in Subsection 100.01 of these rules. (3-17-22)

**07. Person Responsible for Registering Birth of Child**. The person responsible for preparing and filing the certificate of birth is defined in Section 39-255, Idaho Code. (3-17-22)

**08. Pulse Oximetry**. A non-invasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen using equipment approved by the U.S. Food and Drug Administration for use with newborn infants. (3-17-22)

**09. Test Kit**. The materials provided by the laboratory for the purposes of dried blood specimen collection and submission of specimens for newborn screening laboratory procedures. (3-17-22)

**011. -- 049. (RESERVED)**

**050. USE AND STORAGE OF DRIED BLOOD SPECIMENS.**

**01. Use and Storage of Dried Blood Specimens**. Dried blood specimens will be used only for the purpose of testing or re-testing, when necessary, the infant from whom the specimen was taken, and for congenital birth defects. Limited use of specimens for routine calibration of newborn screening laboratory equipment and quality assurance is permissible. ~~(3-17-22)~~( )

~~**02. Prohibited Use of Dried Blood Specimens**. Dried blood specimens may not be used for any purpose other than those described in Subsection 050.01 of this rule without the express written consent of the parent(s) or guardian(s) of the infant from whom the specimen was collected.~~ ~~(3-17-22)~~

~~**03. Storage of Dried Blood Specimens**. Dried blood specimens may be stored at the testing facility for a period not to exceed eighteen (18) months. Acceptable use of stored specimens will be for re-testing the specimen in the event of a symptomatic diagnosis or death of the infant during the storage period.~~ ~~(3-17-22)~~

**051. -- 099. (RESERVED)**

**100. DUTIES OF THE ADMINISTRATOR OF THE RESPONSIBLE INSTITUTION AND THE PERSON REQUIRED TO REGISTER THE BIRTH OF A CHILD.**

**01. Conditions for Which Infants Will Be Tested**. All infants born in Idaho must be tested for at least the following conditions: (3-17-22)

**a.** Biotinidase deficiency; (3-17-22)

**b.** Congenital hypothyroidism; (3-17-22)

**c.** Galactosemia; (3-17-22)

**d.** Maple syrup urine disease; (3-17-22)

**e.** Phenylketonuria; and (3-17-22)

**f.** Critical congenital heart disease. (3-17-22)

**02. Blood Specimen Collection**. (3-17-22)

~~**a.** The dried blood specimen collection procedures must follow the document listed in Subsection 004.01 of these rules. (3-17-22)~~

~~**b.** For infants admitted to the neonatal intensive care unit (NICU), the initial dried blood specimen for newborn screening must be obtained upon admission to the NICU. (3-17-22)~~

~~e~~**a.** For~~ non-premature~~ healthy infants,~~ in hospital,~~ the initial dried blood specimen for newborn screening must be obtained between twenty-four (24) and forty-eight (48) hours of age. ~~(3-17-22)~~( )

**b.** All infants must be retested. A test kit should be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. The preferred time for sample collection for healthy infants is between ten (10) and fifteen (15) days of age. ( )

**c.** For infants admitted to the neonatal intensive care unit (NICU), the initial dried blood specimen for newborn screening must be obtained upon admission to the NICU. Newborns who require a blood transfusion, hyperalimentation, or dialysis should have a dried blood specimen collected for screening prior to these procedures. ( )

**d.** For low birth weight, sick infants (requiring three (3) or more weeks of hospitalization) and/or NICU infants, the first newborn screen specimen should be collected upon admission to the NICU, the second at twenty-four (24) to forty-eight (48) hours of age, and the third at twenty-eight (28) days or four (4) weeks of age. ( )

~~d~~**e.** For newborns transferred from one hospital to another, the originating hospital must assure that the dried blood specimen is drawn. If the newborn is~~ too premature or~~ too sick to have a dried blood specimen drawn for screening prior to transfer and a dried blood specimen is not obtained, the originating hospital must document this, and notify the hospital to which the newborn is being transferred that a dried blood specimen for newborn screening has not been obtained. ~~(3-17-22)~~( )

~~e~~**f.** Prior to the discharge of an infant from the institution where initial newborn care or specialized medical care was rendered, the Administrator of the institution must assure that an adequate dried blood specimen has been collected regardless of the time the infant is discharged from the institution. (3-17-22)

~~f~~**g.** For births occurring outside of a hospital, the birth attendant is responsible for assuring that an

acceptable dried blood specimen is properly collected for newborn screening as stipulated in Section 100 of this rule. (3-17-22)

~~g. Newborns who require a blood transfusion, hyperalimentation, or dialysis must have a dried blood specimen collected for screening prior to these procedures.~~ ~~(3-17-22)~~

~~h. If a dried blood specimen cannot be obtained for newborn screening before transfusion, hyperalimentation, or dialysis, the hospital must ensure that a repeat dried blood specimen is obtained at the appropriate time when the specimen will reflect the infant's own metabolic processes and phenotype.~~ ~~(3-17-22)~~

~~i. All infants must be retested. A test kit must be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. The preferred time for sample collection is between ten (10) and fifteen (15) days of age.~~ ~~(3-17-22)~~

**03. Specimen Data Card**. The person obtaining the newborn screening specimen ~~must~~ should complete ~~the~~ all demographic information requested on the specimen collection card ~~attached to the sample kit. The First Specimen Card must include the infant's mother's date of birth, address, and phone number. Both the First and Second Specimen's Card must include the items listed in 100.03.a. through 100.03.k. of this rule, optional fields may be completed as needed~~. ~~(3-17-22)~~( )

~~a. Name of the infant;~~ ~~(3-17-22)~~

~~b. Whether the birth was a single or multiple-infant birth;~~ ~~(3-17-22)~~

~~c. Name of the infant's mother;~~ ~~(3-17-22)~~

~~d. Gender of the infant;~~ ~~(3-17-22)~~

~~e. Method of feeding the infant;~~ ~~(3-17-22)~~

~~f. Name of the birthing facility;~~ ~~(3-17-22)~~

~~g. Date and time of the birth;~~ ~~(3-17-22)~~

~~h. Date and time the specimen was obtained;~~ ~~(3-17-22)~~

~~i. Name of the attending physician or other attendant;~~ ~~(3-17-22)~~

~~j. Date specimen was collected; and~~ ~~(3-17-22)~~

~~k. Name of person collecting the specimen.~~ ~~(3-17-22)~~

**04. Specimen Mailing**. Within twenty-four (24) hours after collection, the dried blood specimen ~~must~~ should be mailed to the laboratory by first class mail or its equivalent, except when mailing service is not available. When mailing service is not available on weekends and holidays, dried blood specimens ~~must~~ should be mailed to the laboratory on the first available mail pick-up day. The preferred method of mailing, following a weekend or holiday, is by expedited mail service. ~~(3-17-22)~~( )

**05. Record Keeping**. Maintain a record of all dried blood specimens collected for newborn screening. This record ~~must~~ should indicate: ~~(3-17-22)~~( )

**a.** Name of the infant; (3-17-22)

**b.** Name of the attending physician or other attendant; (3-17-22)

**c.** Date specimen was collected; ~~and~~ ~~(3-17-22)~~( )

**d.** Name of person collecting specimen~~.~~; and ~~(3-17-22)~~( )

**e.** Tracking number if courier service is used. ( )

**06. Collection Protocol**. Ensure that a protocol for collection and submission for newborn screening of adequate dried blood specimens has been developed, documented, and implemented. Individual responsibilities must be clearly defined and documented. The attending physician ~~must~~ or birth attendant should request that the test be done. The ~~hospital~~ facility may make an appropriate charge for this service and should seek reimbursement when available. ~~(3-17-22)~~( )

**07. Responsibility for Recording Specimen Collection**. (3-17-22)

**a.** The administrator of the responsible institution, or their designee, must record on the birth certificate whether the dried blood specimen for newborn screening has been collected. (3-17-22)

**b.** When a birth occurs outside a hospital, the person responsible for registering the birth of the child must record on the birth certificate whether the dried blood specimen for newborn screening has been collected and submitted within twenty-four (24) hours following collection. (3-17-22)

**08. Fees**. The Department will provide access to newborn screening laboratory services. If the administration of the responsible institution or the person required to register the birth of a child chooses to utilize this service, the Department will collect a fee equal to the cost of the test kit, analytical, and ~~diagnostic~~ follow-up services provided by the laboratory. The fees must be remitted to the Department before the laboratory provides the test kit to those responsible for ensuring the infant is tested according to these rules. ~~(3-17-22)~~( )

**101. -- 199. (RESERVED)**

**200. LABORATORY DUTIES.**

**01. Participation in Centers for Disease Control and Prevention (CDC) Newborn Screening Quality Assurance Program**. All laboratories receiving dried blood specimens for newborn screening on infants born in Idaho ~~must~~ should participate in the Newborn Screening Quality Assurance Program operated by the CDC. ~~(3-17-22)~~( )

**02. Specimen Processing**. Dried blood specimens for newborn screening ~~must~~ should be processed within twenty-four (24) hours of receipt by the laboratory or before the close of the next business day. ~~(3-17-22)~~( )

**03. Result Notification**. Normal test results may be reported by mail to the submitter. Other results ~~must~~ should be reported in accordance with Section 300 of these rules. ~~(3-17-22)~~( )

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

**300. FOLLOW-UP FOR UNSATISFACTORY SPECIMENS, PRESUMPTIVE POSITIVE RESULTS AND POSITIVE CASES.**

**01. Follow-Up for Unsatisfactory Specimens**. (3-17-22)

**a.** The laboratory will immediately report any unsatisfactory dried blood specimens to the submitting institution that originated the dried blood specimen or to the healthcare provider responsible for the newborn's care, with an explanation of the results. The laboratory will request a repeat dried blood specimen for newborn screening from the institution or individual submitting the original sample, or from the responsible provider as instructed by the program. ~~(3-17-22)~~( )

**b.** Upon notification from the laboratory and as instructed by the program, the health care provider responsible for the newborn's care at the time of the report ~~will cause another~~ should collect a repeat dried blood

specimen to be appropriately forwarded to the laboratory for screening. ~~(3-17-22)~~( )

**02. Follow-Up of Presumptive Positive Results**. The laboratory will report positive or suspicious results on an infant's dried blood specimen to the attending physician or midwife, or, if there is none or the physician or midwife is unknown, to the person who registered the infant's birth, and make recommendations on the necessity of follow-up testing. (3-17-22)

**03. Positive Case Notification**. Confirmed positive cases of biotinidase deficiency, congenital hypothyroidism, galactosemia, maple syrup urine disease, and phenylketonuria must be reported as described in IDAPA 16.02.10, "Idaho Reportable Diseases." (3-17-22)

**301. NEWBORN CRITICAL CONGENITAL HEART DISEASE (CCHD) SCREENING.**

**01. Pulse Oximetry for the Screening of CCHD**. ~~(3-17-22)~~

~~**a.** For births occurring in a hospital, the administrator of the institution or their designee must assure that all infants who meet the CDC criteria for CCHD screening are screened following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html.~~ ~~(3-17-22)~~

~~**b.**~~ For births occurring outside of a hospital, the birth attendant must assure that screening for congenital heart disease is conducted through the use of pulse oximetry ~~no sooner than~~ between twenty-four (24) hours after birth and no later than forty-eight (48) hours after birth following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html. ~~(3-17-22)~~( )

**02. Responsibility of Recording CCHD Screening Results**. (3-17-22)

**a.** For births occurring in a hospital, the administrator of the responsible institution or their designee must record the pulse oximetry results on the birth certificate and whether the CCHD screening was determined as "passed" or "failed" following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html, or "not screened." (3-17-22)

**b.** For births occurring outside of a hospital, the birth attendant or their designee must record the pulse oximetry results on the birth certificate and whether the CCHD screening was determined as "passed" or "failed" following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html, or "not screened." (3-17-22)

**03. Follow Up for Abnormal CCHD Screening Results**. (3-17-22)

**a.** For births occurring in a hospital, the administrator of the responsible institution or their designee must make a referral for further evaluation of the newborn whose CCHD results are abnormal and inform the parent or legal guardian of the need for appropriate intervention. (3-17-22)

**b.** For births occurring outside of a hospital, the person performing the screening is responsible for making an immediate referral for further evaluation of the newborn whose CCHD results are abnormal and informing the parent or legal guardian of the need for appropriate intervention. (3-17-22)

**302. -- 399. (RESERVED)**

**400. SUBSTANCES THAT FULFILL REQUIREMENTS FOR OPHTHALMIC PREPARATION.**
Only those germicides ~~proven to be~~ effective in preventing ophthalmia neonatorum and recommended for use in its prevention by the ~~U.S. Department of Health and Human Services (including the U.S. Public Health Service, the Center for Disease Control and Prevention, and the U.S. Food and Drug Administration)~~ Centers for Disease Control and Prevention, the American Academy of Pediatrics, or the U.S. Preventative Services Task Force will satisfy the requirements established herein, under Section 39-903, Idaho Code. ~~(3-17-22)~~( )

**401. -- 999. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.02.13 – STATE OF IDAHO DRINKING WATER LABORATORY CERTIFICATION PROGRAM

## DOCKET NO. 16-0213-2401 (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 Section 56-202, Idaho Code, and Sections 56-1003 and 56-1007, Idaho Code.

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

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Tuesday, September 10, 2024**<br>**9:00 a.m.-10:00 a.m. (MT)** |
| **Join from the meeting link**<br>https://idhw.webex.com/idhw/j.php?MTID=ma3c307672a041148dc08efcd77923e8b<br><br>**Join by meeting number**<br>**Meeting number (access code): 2819 079 1078**<br>**Meeting password: s3En9r93AcR (73369793 when dialing from a phone or video system)**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

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

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

This rule has been rewritten in accordance with Executive Order 2020-01: Zero-Based Regulation. The goals for this chapter rewrite are to eliminate unnecessary text, improve readability using plain language, lessen requirements for microbiology supervisors to reflect more simplified methods used as the industry standard, update notification requirements, and to change certification fees to prioritize Idaho laboratories.

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

Section 56-1007, Idaho Code, authorizes the Department to charge and collect reasonable fees, established by rule, for any services provided by the Department. The fee schedule in this chapter of rule was set in 2011 and is being updated to help support increased costs to the program. We are proposing that the annual base certification fee for Idaho drinking water labs performing chemistry testing increase from $50 to $100 per chemistry discipline. The $20 per analyte per method fee will remain unchanged. Idaho drinking water labs performing microbiology testing will move from a base fee plus per analyte per method structure to a flat annual fee of $150. The move to the flat fee is to simplify the payment structure, currently almost all microbiology labs pay an itemized invoice with three separate charges to meet compliance testing requirements. The annual base certification fee for out of state chemistry laboratories is being increased from $50 to $200 per discipline. The annual flat certification fee for out of state microbiology laboratories will be $300.

The total estimated increase in receipts due to these fee updates is approximately $8,300, based on the number of currently certified drinking water laboratories. The laboratory participants in our negotiated rulemaking sessions did not express concerns about the updated fee schedule.

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

There is no negative impact on the state General Fund.

**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 May 1st, 2024, Idaho Administrative Bulletin, Volume 24-5, pages 196 and 197.

**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 Manual for the Certification of Laboratories Analyzing Drinking Water is the federal resource that the Environmental Protection Agency utilizes to define quality standards for laboratories testing drinking water in support of the Safe Drinking Water Act. This reference sets the minimum requirements to ensure that laboratories can provide high quality, legally defensible, analytical data at the local, state, and national level. Incorporating this reference allows us to eliminate most of the text in the existing rule and just focus on Idaho specific requirements.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 18th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0213-2401**
**(ZBR Chapter Rewrite)**

## 16.02.13 – ~~STATE OF IDAHO~~ DRINKING WATER LABORATORY CERTIFICATION PROGRAM

**000. LEGAL AUTHORITY.**
~~Under~~ Section 56-1003 and 56-1007, Idaho Code~~, the Idaho Legislature has delegated to the Board of Health and Welfare the authority to set standards for laboratories in the State of Idaho. Under Section 56-1007, Idaho Code, the Department is authorized to charge and collect fees for services rendered by the Department.~~ ~~(3-15-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title**. These rules are titled IDAPA 16.02.13, "State of Idaho Drinking Water Laboratory Certification Program." (3-15-22)~~

~~**02. Scope**. These rules establish a process for certification and standards of operation for laboratories certified by the State of Idaho to test drinking water~~To define laboratory certification requirements for testing drinking water compliance samples. ~~(3-15-22)~~( )

**002. INCORPORATION BY REFERENCE.**

~~**01. Selected Sections from the Code of Federal Regulations, Title 40, Part 141 -- National Primary Drinking Water Regulations, July 1, 2010 Edition**. 40 CFR 141 and 143 may be accessed in electronic format at https://ecfr.io/Title-40/cfrv25#0. The following sections from the Code of Federal Regulations are hereby incorporated by reference: (3-15-22)~~

~~**a.** 40 CFR 141.6 (h), effective dates; (3-15-22)~~

~~**b.** 40 CFR 141.27, alternate testing program; (3-15-22)~~

~~**c.** 40 CFR 141.21(f)(3), total coliform rule; (3-15-22)~~

~~**d.** 40 CFR 141.23, inorganic methods; (3-15-22)~~

~~**e.** 40 CFR 141.24, organic methods; (3-15-22)~~

~~**f.** 40 CFR 141.25, methods for radioactivity; (3-15-22)~~

~~**g.** 40 CFR 141.131, disinfection by products; (3-15-22)~~

~~**h.** 40 CFR 141.74(a), surface water treatment rule; (3-15-22)~~

~~**i.** 40 CFR 141.89, lead and copper; (3-15-22)~~

~~**j.** 40 CFR 141.402(c)(2), ground water; (3-15-22)~~

~~**k.** 40 CFR 141.704, long-term surface water treatment rule 2; (3-15-22)~~

~~**l.** 40 CFR 141.803, aircraft drinking water rules; (3-15-22)~~

~~**m.** 40 CFR 141, Appendix A to Subpart C, expedited method approval; and (3-15-22)~~

~~**n.** 40 CFR 143.4, secondary contaminants. (3-15-22)~~

**0~~2~~1. Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005, including Supplement 1 EPA 815-F-08-006, June 2008, and Supplement 2 EPA 815-F-12-006, November 2012**. ~~The Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005, including Supplement 1 EPA 815-F-08-006, June 2008, is hereby incorporated by reference. It may be a~~Accessed in electronic format at https://www.epa.gov/dwlabcert/laboratory-certification-manual-drinking-water. ~~(3-15-22)~~( )

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Department~~Analyst~~**. ~~A person responsible for testing, quality control, and reporting of analytical results~~. The Idaho Department of Health and Welfare. ~~(3-15-22)~~( )

~~02. Board. The Idaho Board of Health and Welfare. (3-15-22)~~

~~03. Certification Authority for the State of Idaho (CA). The CA has signature authority for all certification decisions as required for primacy in 40 CFR 142.10 (b)(3)(i). The Bureau Chief of the Idaho Bureau of Laboratories is the certification authority for the State of Idaho. (3-15-22)~~

~~04. Certification Officer (CO). The CO is the person responsible for on-site evaluations and providing technical support and guidance to a certified drinking water laboratory (CDWL). (3-15-22)~~

~~05. Certified Drinking Water Laboratory (CDWL). A facility that examines drinking water for the purpose of identifying or measuring microbiological, chemical, radiological, or physical parameters, and is certified by the State of Idaho. (3-15-22)~~

02. Discipline. A drinking water program designed to test inorganic chemistry, microbiology, organic chemistry, or radiochemistry analytes. ( )

~~06. Department. The Idaho Department of Health and Welfare. (3-15-22)~~

03. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in a public water system. ( )

04. Regulatory Agency. The Idaho Department of Environment Quality ( )

05. Subcontracting. The procedure where a certified laboratory sends samples to another laboratory that is certified or has been granted reciprocity to test compliance samples from Idaho. ( )

~~07. Department of Environmental Quality (DEQ). The state agency that has primacy and is primarily responsible for administrating and enforcing regulations related to environmental quality. (3-15-22)~~

~~08. Director. The Director of the Idaho Department of Health and Welfare, or their designee. (3-15-22)~~

~~09. Discipline. Areas of certification for the testing of drinking water, i.e., microbiology, radiochemistry, inorganic chemistry, and organic chemistry. (3-15-22)~~

~~10. Drinking Water Coordinator (DWC). The drinking water coordinator is an Environmental Health Specialist at a public health district assigned to monitor public water systems. (3-15-22)~~

~~11. Idaho Bureau of Laboratories (IBL). The IBL is a bureau in the Division of Public Health in the Idaho Department of Health and Welfare. (3-15-22)~~

~~12. LIMS. Laboratory Information Management System. (3-15-22)~~

~~13. Laboratory Supervisor. A person who directs the day-to-day activities of a CDWL. (3-15-22)~~

~~14. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water that is delivered to any user of a public water system. (3-15-22)~~

~~15. On-Site Evaluation. The physical, quality control, and data audit of a laboratory, including all aspects of operation related to the testing of drinking water samples. (3-15-22)~~

~~16. Primacy. The responsibility for ensuring that Safe Drinking Water Act (SDWA) laws are implemented and the authority to enforce a law and related regulations (40 CFR 142.2) applicable to public water systems within the state. (3-15-22)~~

~~17. Proficiency Test (or Testing) (PT). Sample(s) provided to demonstrate that a laboratory can~~

successfully analyze the sample(s) within the acceptance limits specified in the regulations. The qualitative or quantitative composition of the reference material is unknown to the laboratory at the time of the analysis. (3-15-22)

**18. Public Water System (PWS)**. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. (3-15-22)

**19. Quality Assurance (QA)**. An integrated system of management activities that involves planning, quality control, quality assessment, reporting, and quality improvement to ensure a product or service meets defined standards of quality with a stated level of confidence. (3-15-22)

**20. Quality Control (QC)**. The overall system of technical activities whose purpose is to measure and control the quality of a product or service so that it meets the needs of the users. QC also includes operational techniques and activities that are used to fulfill the requirement of quality. (3-15-22)

**21. Quality Assurance Plan (QA Plan)**. A comprehensive plan detailing the aspects of quality assurance required to adequately fulfill the needs of a program. This document is required before a laboratory can be certified or reciprocity is granted. (3-15-22)

**22. Reciprocity**. An extension of certification by the CA to an accredited or certified out-of-state laboratory based upon satisfactory review of documentation that demonstrates compliance with these rules. (3-15-22)

**23. Regulatory Agency**. The Idaho Department of Environment Quality (DEQ). (3-15-22)

**24. Regulatory Authority (RA)**. The assigned drinking water Analyst III at a regional DEQ office. (3-15-22)

**25. Standard Operating Procedure (SOP)**. A written document that describes the method of an operation, analysis, or action whose techniques and procedures are thoroughly prescribed and that is officially approved as the method for performing a routine or repetitive test. (3-15-22)

**26. Standard Methods (SM)**. SM refers to a standard method of water testing published in the Standard Methods for the Examination of Water and Wastewater, as incorporated by reference under Section 004 of these rules. (3-15-22)

**27. Subcontracting**. The procedure whereby a laboratory certified by the State of Idaho may send samples to another laboratory that is certified or has been granted reciprocity by the State of Idaho for analysis. (3-15-22)

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

## REQUIREMENTS FOR CERTIFICATION OF DRINKING WATER LABORATORIES
## (Sections 100-199)

### 100. APPLICATION FOR CERTIFICATION.

**01. Required Information on Application**. An application for first-time certification for microbiology, inorganic chemistry, organic chemistry, or radiochemistry must be submitted to the CA on a form provided by the IBL. The following information must be included: name, location, and contact information of the drinking water laboratory, name of the owner, listing of methods/analytes for which certification is requested, documentation of the education, experience, and training of the laboratory supervisor for each discipline for which certification is being requested. (3-15-22)

**02. Time Frame for Renewal of Application for Reciprocity**. Applications for renewal of reciprocity must be received by the IBL at least thirty (30) days before the current certificate expires. (3-15-22)

~~03. Reapplication for Additional Analytes or to Change Methods. An in-state laboratory seeking to change methods or to add analytes utilizing the same method for which the laboratory is currently certified must submit a written application requesting the change in certification and include a copy of the SOP with QC requirements specific to the method. (3-15-22)~~

~~04. Reapplication for Certification. A laboratory that has been downgraded to provisional or has been decertified for an analyte or method, or both, must provide written documentation to the CO of the corrective actions within the specified period. A laboratory that has been decertified in entirety must re-apply following the same procedure as a laboratory applying for first-time certification. (3-15-22)~~

~~05. Reciprocity for Out-State Laboratories. Each out-of-state laboratory seeking reciprocity with Idaho must submit the same information as an in-state drinking water laboratory applying for first-time certification. (3-15-22)~~

01. Approved Form. An application for drinking water certification, listing methods approved by the regulatory agency, must be submitted annually on a form approved by the department. ( )

02. Time Frame for Renewal of Application. Applications for renewal and supporting documentation requested by the department must be received by the department at least thirty (30) days before the current certificate expires. ( )

03. Reapplication for Additional Analytes or to Change Methods. A laboratory seeking to change methods or to add analytes prior to annual reapplication must submit an amended application and provide supporting documentation requested by the department. Laboratories submitting an amended application will be subject to an additional base fee charge. ( )

**101. CERTIFICATION FEES.**

01. Idaho Chemistry Laboratory Fees. Laboratories requesting chemistry certification will be charged a base fee of one hundred dollars ($100) per discipline and twenty dollars ($20) per analyte per method. Certification is valid for one (1) year from the date of issuance. ( )

02. Idaho Microbiology Laboratory Fee. Laboratories requesting microbiology certification will be charged a fee of one hundred fifty dollars ($150). Certification is valid for one (1) year from the date of issuance. ( )

03. Out of State Chemistry Laboratory Fees. Out of state laboratories requesting chemistry certification will be charged a base fee of two hundred dollars ($200) per discipline and twenty dollars ($20) per analyte per method. Certification is valid for one (1) year from the date of issuance. ( )

04. Out of State Microbiology Laboratory Fee. Out of state laboratories requesting microbiology certification will be charged a fee three hundred dollars ($300). Certification is valid for one (1) year from the date of issuance. ( )

05. New Laboratory Non-Refundable Application Fee. New laboratories requesting certification will be charged a non-refundable application fee of two hundred fifty dollars ($250) per discipline listed and the completed application form. ( )

**102. -- 109. (RESERVED)**

**110. ON-SITE AUDIT.**

Qualified representatives of the department are authorized to audit the premises and operations of all certified laboratories to determine the adequacy of the laboratory to perform drinking water compliance testing. On-site audits must occur a minimum of every three (3) years or more frequently at the discretion of the department. Departmental representatives will issue a written report of audit findings, list items requiring a laboratory response, and specify the response timeframe required to maintain certification. ( )

**01. Annual Base Fee**. All CDWLs must pay an annual base fee of fifty dollars ($50) per discipline and twenty dollars ($20) per analyte per method for which certification is requested. Certification is valid for one (1) year from the date of issuance. (3-15-22)

**02. Non-Refundable Application Fee**. Each new laboratory that is seeking certification or reciprocity must include a non-refundable application fee of two hundred dollars ($200) per discipline with the application. (3-15-22)

## 102. TYPES OF CERTIFICATION.

**01. Certified**. A certified laboratory meets the regulatory performance criteria described in these rules. (3-15-22)

**02. Provisionally Certified**. A provisionally certified laboratory has deficiencies, but demonstrates the ability to consistently produce valid data within the acceptance limits in these rules. (3-15-22)

**03. Not Certified**. A laboratory with the status of "not certified" can not produce consistently valid data, or is not following method protocol, or both. Such laboratories cannot analyze compliance samples. (3-15-22)

**04. Interim Certification**. The CA may grant interim certification to a laboratory if the laboratory has appropriate instrumentation, is using approved methods, has adequately trained personnel to perform the analyses, and has satisfactorily analyzed PT samples for the contaminants involved. The CO will review the laboratory's quality control data before granting this type of certification and will conduct an on-site evaluation as soon as possible. (3-15-22)

**05. Reciprocity**. Reciprocity may be granted by the CA to out-of-state laboratories if such laboratories are certified or accredited by an approved regulatory agency and meet the regulatory performance criteria described in these rules. (3-15-22)

## 103. SUBCONTRACTING.

**01. List of Subcontractors**. Laboratories who subcontract work must maintain a list of subcontractors and documentation of the subcontracting laboratories' certification or reciprocity with the State of Idaho. (3-15-22)

**02. Identification Requirements for Subcontracting Laboratory**. The laboratory performing the subcontracted analysis must be identified by name and EPA identification number on the final report. (3-15-22)

**03. Availability of the Report from the Subcontracting Laboratory**. The report from the subcontracting laboratory must be available to the client upon request. (3-15-22)

**04. Availability of all Subcontracting Laboratory Records**. All subcontracting laboratory records must be available to the COs. (3-15-22)

## 104. – 109. (RESERVED)

## 110. ON-SITE EVALUATION.

**01. On-Site Audits and Evaluations**. COs will perform audits of the premises and operations of new laboratories or laboratories requesting continuing certification for the purpose of determining if there is enough security to maintain the integrity of the samples and data. The frequency of the on-site evaluation is at the discretion of the CA or a minimum of every three (3) years. In addition, the CO will evaluate the: (3-15-22)

**a.** Physical set up of the laboratory; (3-15-22)

**b.** Quality assurance program; (3-15-22)

~~c. Personnel qualifications; (3-15-22)~~

~~d. Equipment considerations; and (3-15-22)~~

~~e. Adequacy of data handling. (3-15-22)~~

~~02. Written Report of Findings from the On-Site Evaluation. The CO will generate a written report of findings from the on-site evaluation. The report will detail areas requiring a written response and specify the length of time the laboratory has to respond. The length of time for the laboratory to respond will be proportional the number and severity of deviations. If the conditions observed during an on-site evaluation are such that an immediate down grade or decertification is warranted the laboratory will be notified by certified mail within thirty (30) days by the CA. - (3-15-22)~~

**111. -- 11~~2~~9. (RESERVED)**

**130. REPORTING, NOTIFICATION, AND DISTRIBUTION OF LABORATORY RESULTS.**

**01. Submission of Test Results in Approved Format**. Test results must be submitted in a format approved by the regulatory agency. Test results must be reported to the regulatory agency, or designee, no later than ten (10) business days after the completion of testing or upon receipt of results from subcontract laboratories. ( )

**02. Notification of High Chemical Contaminant Levels**. As soon as feasible, the laboratory must notify the regulatory agency, or designee, of any nitrate and nitrite level exceeding the current MCL. Notification must also be made for any other regulated chemical or radiological contaminant that exceeds four (4) times the MCL. Notification requirements apply to any samples subcontracted to another laboratory. ( )

**03. Notification of Positive Microbiological Results**. The laboratory must notify the regulatory agency, or designee, of any total coliform positive result by the end of the day unless the positive result is obtained after the regulatory agency is closed and the regulatory agency does not have either an after-hours phone line or an alternative notification procedure, in which case the laboratory must notify the regulatory agency before the end of the next business day. ( )

~~120. PERSONNEL QUALIFICATIONS.~~

~~01. General Supervisor Qualifications. (3-15-22)~~

~~a. A supervisor must be on-site frequently enough to satisfactorily perform the required duties outlined below. The CO must be notified if the supervisor is unable to be on-site for a period greater than three (3) consecutive weeks. (3-15-22)~~

~~b. Supervisors are responsible for ensuring that all laboratory personnel have demonstrated proficiency for assigned functions and that all data reported by the laboratory meet the required quality assurance criteria and regulatory requirements. (3-15-22)~~

~~c. If a formal complaint is received from the regulatory agency, then the CO will notify the responsible laboratory supervisor and request a report describing the incident, the probable cause, and the corrective action to be taken to ensure the situation is resolved. The incident report must be received by the CA within thirty (30) days of the laboratory being notified of the problem. The CO in conjunction with the CA will evaluate the response and if found to be acceptable, no further action will be required of the laboratory. If the response is incomplete, the CO will provide in writing the additional steps that must be completed for certification status to remain uninterrupted. (3-15-22)~~

~~d. No drinking water supervisor will be responsible for the supervision of more than two (2) certified drinking water laboratories unless specifically approved by the CA. (3-15-22)~~

~~e. If a microbiology supervisor is not available, a consultant having the same qualifications may be utilized. The laboratory must submit the academic qualifications and work experience of the potential consultant to~~

~~the CA. In addition, the laboratory must define and submit a list of the specific functions the consultant will be performing along with a schedule of routine visits. If the information is found to be acceptable, the CA will notify the laboratory director or owner in writing. A record of all consultant visits and communications must be maintained and be available for review during the on-site evaluation. The record must include a brief description of on-site findings and include any telephone or electronic consultation. Each entry must be dated and signed by the consultant.~~ ~~(3-15-22)~~

**~~02. Supervisor Qualifications by Discipline~~**. ~~(3-15-22)~~

**~~a.~~** ~~The supervisor of a microbiology laboratory must have a bachelor's degree from an accredited college in microbiology, biology, or equivalent. Supervisors who have a degree in a subject other than microbiology must have had at least two (2) college-level microbiology courses in which environmental microbiology was part of the curriculum. In addition, the supervisor must have a minimum of two (2) weeks training at a federal agency, state agency, or academic institution in the microbiological analysis of drinking water or eighty (80) hours of on the job training in water microbiology at a certified laboratory, or other comparable training acceptable to the CA.~~ ~~(3-15-22)~~

**~~b.~~** ~~The supervisor of a chemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry or equivalent and at least one (1) year of experience in the analysis of drinking water. In addition, the supervisor must have a working knowledge of quality assurance principles.~~ ~~(3-15-22)~~

**~~c.~~** ~~The supervisor of a radiochemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry, or equivalent, and should have at least one (1) year of experience in the measurement of radioactive analytes in drinking water. In addition, the supervisor must have a working knowledge of QA and QC principles as applied to all radiochemical practices and procedures conducted in the laboratory.~~ ~~(3-15-22)~~

**~~03. Analyst or Equivalent Job Title~~**. ~~(3-15-22)~~

**~~a.~~** ~~An analyst performing microbiological testing must have a minimum of a high school education or equivalent, at least three (3) months of bench experience in environmental microbiological testing, and thirty (30) days on-the-job training in drinking water microbiology under the direction of an experienced analyst. If an analyst has a bachelor's degree in microbiology, or related field, the three (3) month bench training may be shortened to thirty (30) hours at the discretion of the laboratory supervisor. Before analyzing compliance samples, the analyst must demonstrate competency by successfully completing a PT.~~ ~~(3-15-22)~~

**~~b.~~** ~~Analysts in each of the chemical disciplines should have at least a bachelor's degree with a major in chemistry, or equivalent, and at least one (1) year of experience in the analysis of drinking water for the discipline in which they are working. If the analyst is responsible for the operation of analytical instrumentation, they must have completed specialized training offered by the manufacturer or another qualified training facility or have successfully served an apprenticeship under an experienced analyst. The duration of this apprenticeship should be proportional to the sophistication of the instrument. Data produced by analysts and instrument operators while in the process of obtaining the required training or experience are acceptable only when reviewed and validated by a fully qualified analyst or the laboratory supervisor. Documentation of training must be maintained for each analyst and available for evaluation by the CO.~~ ~~(3-15-22)~~

**~~04. Chemistry Technician~~**. ~~Technicians in each of the chemical disciplines must have at least a high school diploma or equivalent, have completed a method training program under an experience analyst, and have six (6) months bench experience in the analysis of drinking water. The method training record for each analyst should be recorded in a training file and available for evaluation by the CO.~~ ~~(3-15-22)~~

**~~121. – 129. (RESERVED)~~**

**~~130. REPORTING, NOTIFICATION, AND DISTRIBUTION OF LABORATORY RESULTS.~~**

**~~01. Submission of Test Results in Approved Format~~**. ~~The drinking water supervisor in each of the disciplines of certification is responsible for submission of all test results performed on samples submitted by PWSs, including subcontracted samples, in a format approved by the DEQ Drinking Water Program. Reports must be~~

submitted to the appropriate regulatory authority or drinking water coordinator in a timely manner not to exceed ten (10) business days after the completion of testing or upon receipt of results from subcontract laboratories. (3-15-22)

**02. Notification of High Contaminant Levels**. The chemistry supervisor or designee must notify the appropriate regulatory agency or drinking water coordinator by phone as soon as feasible of any nitrate and nitrite level exceeding the current MCL including subcontracted samples. Notification must also be made when any other regulated chemical or radiological contaminant exceeds four (4) times the MCL. (3-15-22)

**03. Notification of Positive Microbiological Results**. The microbiological supervisor or designee is responsible for an immediate telephone notification to the appropriate regulatory agency in the case of a positive result for a microbiological test. If the RA or DWC is not available, the results must be given to the person designated by the RA or DWC to take the information. (3-15-22)

**131. – 139. (RESERVED)**

**140. LABORATORY QUALITY ASSURANCE.**

**01. The QA Plan**. Each laboratory certified or having reciprocity with the State of Idaho must have and adhere to a QA plan. Laboratories seeking certification will be required to submit such a plan for review as part of the application process. (3-15-22)

**02. Required Items for the QA Plan**. The EPA Manual for the Certification of Laboratories Analyzing Drinking Water lists the items that must be included: (3-15-22)

**a.** Laboratory organization and responsibility; (3-15-22)

**b.** SOPs with dates of last revision; (3-15-22)

**c.** Laboratory sample receipt and handling procedure; (3-15-22)

**d.** Instrument calibration procedures; (3-15-22)

**e.** Analytical procedures; (3-15-22)

**f.** Data reduction, validation, reporting and verification; (3-15-22)

**g.** Type of quality control (QC) checks and frequency of use; (3-15-22)

**h.** List of schedules of internal and external system and data quality audits and inter-laboratory comparisons; (3-15-22)

**i.** Preventive maintenance procedures and schedules; (3-15-22)

**j.** Corrective action contingencies; and (3-15-22)

**k.** Record-keeping procedures. (3-15-22)

**03. Chain-of-Custody Procedures**. Each laboratory must have a procedure in place in the event the submitter requires an evidence chain-of-custody. (3-15-22)

**04. Maintenance of Records**. Each laboratory must: (3-15-22)

**a.** Maintain a record keeping system that allows the history of the sample and associated data to be readily understood through documentation. This would include access to LIMS, both present and prior systems, all electronic data including backup, QC documents and all associated calculations, maintenance records including replacement history of instruments, submission forms, submission forms to subcontracting laboratories, final reports from subcontracting laboratories, and final reports generated by the certified laboratory. (3-15-22)

**b.** Retain all records for a minimum of five (5) years from generation of the last entry in the records. (3-15-22)

**c.** Notify public water system clients before disposing of records. (3-15-22)

**d.** Be aware of and adhere to specific record retention as required for specific analytes or disciplines. (3-15-22)

**05. Proficiency Testing (PT).** Proficiency test samples must be successfully analyzed annually per analyte per method for which the laboratory is certified. All PT samples must be obtained from an approved supplier, and must be analyzed in the same manner as routine samples by the primary analyst assigned to the specific analysis. If testing is rotated among a number of analysts the supervisor will be responsible for determining who completes the PT. Records must include the name of the analyst who completed the testing. The results of the PT must be sent directly from the supplier to the CO. The methods listed on the laboratory's certificate must be the methods used for PT samples. (3-15-22)

**141. – 149. (RESERVED)**

**150. EVALUATION.**

**01. Documentation of Corrective Action.** If a CDWL is found to be noncompliant, it will be notified in writing by the CA of the number and seriousness of the deviations. The noncompliant laboratory will be required to submit documentation of correction to the CA or their designee within the time limit specified by the CA. (3-15-22)

**02. Adequacy of Corrective Action.** Upon receipt of documentation of corrective action, the CO in conjunction with the CA will review the response to determine the adequacy of the corrective action taken. The laboratory will be eligible for certification if the response is found to be complete. If the response is incomplete or inadequate, the laboratory will be notified in writing of the additional changes required along with a specified time for completion. (3-15-22)

**03. Unacceptable PT Result.** In the event of an unacceptable PT, the laboratory must submit an incident report to the CO that includes a description of the incident and corrective action taken. A second PT must be completed within sixty (60) days of the laboratory being notified of the failure. If the second PT is successfully analyzed no further action will be taken. If a second PT is not analyzed or if the second PT is also unacceptable, the laboratory will be downgraded in accordance with Section 210 of these rules. (3-15-22)

**04. Continued Certification of Other Tests.** A CDWL that has an unacceptable PT result per analyte per method may remain certified for performance of all tests for which satisfactory performance has been demonstrated through the annual successful PT testing. (3-15-22)

**151. – 199. (RESERVED)**

## REQUIREMENTS FOR DRINKING WATER LABORATORIES TO MAINTAIN, DOWNGRADE, OR REVOKE CERTIFICATION
## (Sections 200-299)

**200. MAINTENANCE OF CERTIFICATION.**
In order to maintain certification, drinking water laboratories must be able to demonstrate they continue to meet all of the following requirements. (3-15-22)

**01. Successful Completion of PT Samples.** Each year, each laboratory must successfully complete a PT per analyte per method for which the laboratory is seeking to maintain certification. (3-15-22)

**02. Use of Specified Methods.** Each laboratory must be able to demonstrate it is using the methods specified in the drinking water regulations. (3-15-22)

**03. Maintain Required Standard of Quality**. The CO must be satisfied the laboratory is maintaining the required standard of quality for certification. This is based on the results of the PT testing, on-site evaluations, and any feedback from regulatory agencies. (3-15-22)

**04. Notification of Major Changes**. The laboratory must notify the CA in writing within thirty (30) days of major changes that could affect the accuracy and precision of testing. A major change includes the loss of a laboratory supervisor, equipment failure or breakdown, or change in location or ownership. (3-15-22)

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

**210. CRITERIA AND PROCEDURES FOR DOWNGRADING OR REVOKING CERTIFICATION STATUS.**

**01. Reasons a Laboratory May be Downgraded to Provisionally Certified Status**. A laboratory may be downgraded to provisionally certified status for an analyte or method for any of the following reasons: (3-15-22)

**a.** Failure to analyze a PT annually within acceptance limits specified in the regulations as demonstrated by a failure of a second PT; (3-15-22)

**b.** Failure to submit an incident report after failing a PT or to analyze a second PT; (3-15-22)

**c.** Failure to notify the CA within thirty (30) days of major changes; (3-15-22)

**d.** Failure to maintain the required standard of quality based upon observations made by the CO during an on-site evaluation; or (3-15-22)

**e.** Failure to report compliance data to the regulatory agency in a timely manner. (3-15-22)

**02. Procedure for Downgrading to Provisionally Certified Status**. (3-15-22)

**a.** The CA will notify the laboratory director or owner by certified mail of the intent to downgrade the laboratory to provisional certification per analyte per method within thirty (30) days of learning of any of the items listed under Subsection 210.01 of this rule. The laboratory will be given be given thirty (30) days from the date of receipt to develop a written corrective action plan and submit it with all supporting documentation to the CA. This information will be reviewed and evaluated for adequacy. The laboratory will be notified by certified mail if the response is acceptable or if additional corrective action must be taken. The CO will document that the corrective action plan has been implemented during the next on-site evaluation. (3-15-22)

**b.** If a laboratory fails a second PT, the CA will downgrade the laboratory to provisionally certified status for that analyte or method and notify the laboratory by certified mail. (3-15-22)

**c.** A provisionally certified laboratory has three (3) months to correct the problem in a manner that is acceptable to the CA. If the downgrading of certification is based on the results of PT testing, the reason for the error must be identified and corrected. A third PT must be successfully analyzed. A provisionally certified laboratory may continue to analyze samples for compliance purposes, but must notify its clients of the downgraded status of certification and provide that information in writing on all reports. (3-15-22)

**d.** An out-of-state laboratory that has reciprocity with Idaho and is downgraded to provisional status by either the accreditation agency or certification authority of the home state must notify the CA of the change within thirty (30) days of the downgrade. (3-15-22)

**03. Criteria for Revoking Certification Status**. (3-15-22)

**a.** A laboratory must be downgraded from certified, provisionally certified, or interim certified status to "not certified" for a particular analyte or method for the following reasons: (3-15-22)

~~i. Reporting PT data from another laboratory as its own; (3-15-22)~~

~~ii. Falsification of data or other deceptive practices; (3-15-22)~~

~~iii. Failure to use the analytical methodology specified in the regulations; and (3-15-22)~~

~~iv. For provisionally certified laboratories, failure to correct the identified deficiencies that lead to the downgrading of certification status. (3-15-22)~~

~~**b.** Reciprocity of out-of-state laboratories who do not notify the CA of any changes in the status of certification or accreditation will automatically be revoked. (3-15-22)~~

~~**04. Procedure for Revocation**. (3-15-22)~~

~~**a.** The CA will notify the laboratory in writing of the intent to revoke certification. The laboratory will have thirty (30) days from the time of the notification to provide a written response. (3-15-22)~~

~~**b.** If the laboratory responds with an acceptable written corrective action plan, including documentation of implementation, the revocation will be suspended. (3-15-22)~~

~~**c.** If the response is unacceptable, incomplete, or both, certification will be revoked. If the laboratory does not respond, certification will be revoked. The laboratory will be notified in writing of the revocation. (3-15-22)~~

~~**05. Upgrading or Reinstatement of Certification**. A laboratory seeking an upgrade of certification must request this change in writing and provide documentation that the deficiencies that led to the provisional certification have been corrected. In addition, an on-site evaluation and successful completion of an additional PT may be required. A laboratory seeking certification after a revocation must follow the same procedure as a new laboratory seeking initial certification. (3-15-22)~~

**~~211~~131. -- 999. (RESERVED)**

# IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

## 16.03.09 – MEDICAID BASIC PLAN BENEFITS

## DOCKET NO. 16-0309-2401 (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 Section 56-202, Idaho Code, and Sections 56-264, 56-265, and 56-1610, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Tuesday, September 17, 2024**<br>**1:00pm- 2:00pm (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=m292b238a95c19e7f077494c941daf3f7**<br><br>**Join by meeting number**<br>Meeting number (access code): **2826 650 5576**<br>Meeting password: **jbJ5KKrrW26**<br>Meeting password from phone: **52555577**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Friday, September 20, 2024**<br>**2:30pm- 3:30pm (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=m9e9e8b604ab7fcd24631e522770ffdd9**<br><br>**Join by meeting number**<br>Meeting number (access code): **2819 457 8744**<br>Meeting password: **ZrXA4fmkT42**<br>Meeting password from phone: **97924365**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

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:

Under Executive Order 2020-01: Zero-Based Regulation, the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language.

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

Fees will not be increased as a result of this rule 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:

There is no anticipated fiscal impact to the state General Fund or any other fund.

**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 May 1st, 2024, Idaho Administrative Bulletin, Volume 24-5, pages 198 through 199.

**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 "Estimated Useful Lives of Depreciable Hospital Assets" is incorporated by reference to support financial operations and reimbursement. A copy of the document is available from the copyright holder, the American Hospital Association.

The "Provider Reimbursement Manual (PRM)" is incorporated by reference to support financial operations and reimbursement. The document is available at https://www.cms.gov/medicare/regulations-guidance/manuals/paper-based-manuals.

A**SSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 22nd day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0309-2401**
**(ZBR Chapter Rewrite)**

## 16.03.09 – MEDICAID BASIC PLAN BENEFITS

**000. LEGAL AUTHORITY.**

**01. Rulemaking Authority**. The Idaho Department of Health and Welfare has the authority to promulgate public assistance rules under Section 56-202(b), 56-264, 56-265, and 56-1610, Idaho Code. (3-17-22)

~~**02. General Administrative Authority**. Titles XIX and XXI of the Social Security Act, as amended, and the companion federal regulations, are the basic authority for administration of the federal program. General administrative duties for the Department are found under Section 56-202, Idaho Code.~~ ~~(3-17-22)~~

~~**03. Administration of the Medical Assistance Program**.~~ ~~(3-17-22)~~

~~**a.** Section 56-203(7), Idaho Code, empowers the Department to define persons entitled to medical assistance.~~ ~~(3-17-22)~~

~~**b.** Section 56-203(9), Idaho Code, empowers the Department to identify the amount, duration, scope of care, and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program.~~ ~~(3-17-22)~~

~~**c.** Sections 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, establish minimum standards that enable these rules.~~ ~~(3-17-22)~~

~~**04. Fiscal Administration**.~~ ~~(3-17-22)~~

~~**a.** Fiscal administration of these rules is authorized by Titles XIX and XXI of the Social Security Act, as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2. Provisions of the PRM, as incorporated in Section 004 of these rules, apply unless otherwise provided for in these rules.~~ ~~(3-17-22)~~

~~**b.** Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for certain Medicaid providers.~~ ~~(3-17-22)~~

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title**. The title of these rules is IDAPA 16.03.09, "Medicaid Basic Plan Benefits."~~ ~~(3-17-22)~~

**02. Scope**. ~~This chapter of~~These rules contain~~s~~ the general provisions regarding the administration of ~~the Medical Assistance Program~~ Medicaid. All goods and services not specifically included in this chapter are excluded from coverage under the Medicaid Basic Plan. ~~A guide to covered services is found under Section 399 of these rules.~~ These rules also contain requirements for provider procurement and ~~provider~~ reimbursement.
~~(3-17-22)~~( )

~~**002. WRITTEN INTERPRETATIONS.**~~
~~This agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection.~~ ~~(3-17-22)~~

**002. – 003. (RESERVED)**

**004. INCORPORATION BY REFERENCE.**
The ~~following are~~ Department has incorporated by reference ~~in this chapter of rules~~ the following: ~~(3-17-22)~~( )

~~**01. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services**. The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the "Under the Direction of" Rule technical report is available on the internet at: https://www.asha.org/. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-17-22)~~

~~**02. DSM-5-TR**. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) Arlington, VA, American Psychiatric Association, 2022. A copy of the manual is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (7-1-24)~~

0~~3~~1. **Estimated Useful Lives of Depreciable Hospital Assets, ~~2004~~ 2023 Revised Edition~~, Guidelines Lives~~**. Thi~~s~~e document may be obtained from the American Hospital ~~Publishing, Inc., 211 East Chicago Avenue~~ Association, 155 North Wacker Drive, Ste. 400, Chicago, IL, 606~~11~~06. ~~(3-17-22)~~( )

~~**04. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual 2016, As Amended (CMS/Medicare DME Coverage Manual)**. Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the CMS/Medicare DME Coverage Manual is available via the Internet at https://med.noridianmedicare.com/web/jddme/education/supplier-manual. (3-17-22)~~

0~~5~~2. **Provider Reimbursement Manual (PRM)**. The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available ~~on the CMS website~~ at: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html. ~~(3-17-22)~~( )

~~**06. Travel Policy and Procedures**. The text of "State Travel Policy and Procedures," Appendices A and B, January 17, 2023, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or at https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx. (7-1-24)~~

**005. -- 007. (RESERVED)**

**008. ~~AUDIT, INVESTIGATION, AND ENFORCEMENT.~~(RESERVED)**
~~The Department may audit, investigate, and take enforcement action under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (7-1-24)~~

**009. BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Background Checks**. Background checks are required for ~~certain types of~~ specific providers under these rules. Providers who are required to have a background check and their contractors must comply with IDAPA 16.05.06, "Criminal History and Background Checks." ~~(7-1-24)~~( )

**02. Department-Issued Variances to Requirements for a Clearance**. (7-1-24)

**a.** Notwithstanding ~~those~~ provider types required to obtain a clearance or enhanced clearance under these rules or under IDAPA 16.05.06, "Criminal History and Background Checks," the Department may allow variances to clearance requirements under certain circumstances. Providers who are subject to a background check must still complete ~~and notarize~~ an application for a background check. ~~(7-1-24)~~( )

**b.** In cases where the application process results in a denial ~~rather than a clearance, and the denial is~~ due to the applicant's prior convictions for disqualifying drug and alcohol-related offenses, the applicant may, with prior written approval of the Department, deliver covered Medicaid Peer Support and Recovery Coaching services. ~~(3-17-22)~~( )

~~c. A variance may be granted on a case-by-case basis upon review by the Department of any underlying facts and circumstances in each individual case. The Department will establish the process for the administrative review which will be conducted separate from the background check unit. During the Department's review, the following factors may be considered:~~ ~~(7-1-24)~~

~~i. The severity or nature of the crimes or other findings;~~ ~~(3-17-22)~~

~~ii. The period of time since the incidents occurred;~~ ~~(3-17-22)~~

~~iii. The number and pattern of incidents being reviewed;~~ ~~(3-17-22)~~

~~iv. Circumstances surrounding the incidents that would help determine the risk of repetition;~~ ~~(3-17-22)~~

~~v. The relationship between the incidents and the position sought;~~ ~~(3-17-22)~~

~~vi. Activities since the incidents, such as continuous employment, education, participation in treatment, completion of a problem-solving court or other formal offender rehabilitation, payment of restitution, or any other factors that may be evidence of rehabilitation;~~ ~~(3-17-22)~~

~~vii. A pardon granted by a state governor or the President of the United States;~~ ~~(7-1-24)~~

~~viii. The falsification or omission of information on the self-declaration form and other supplemental forms submitted; and~~ ~~(3-17-22)~~

~~ix. Any other factor deemed relevant to the review.~~ ~~(3-17-22)~~

~~d. A variance granted under these rules is not a criminal history and background check clearance and does not set a precedent for subsequent application for variance. The Department may revoke a variance when it identifies a risk to participants' health and safety. Providers who have been granted a variance must still meet all other Department requirements for Medicaid coverage and reimbursement of Peer Support and Recovery Coaching services, and are prohibited from delivering any other covered Medicaid service without the required clearance or Department enhanced clearance.~~ ~~(3-17-22)~~

~~03. Availability to Work or Provide Service.~~ ~~(3-17-22)~~

~~a. The employer may allow an individual to provide care or services on a provisional basis once the application for a background check is completed and notarized, and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant records.~~ ~~(7-1-24)~~

~~b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the background check is completed and a clearance issued by the Department.~~ ~~(7-1-24)~~

**043. ~~Additional Criminal~~Subsequent Convictions, Charges, or Investigations**. Once ~~an individual has received a~~ clearances are received, any ~~additional~~ subsequent criminal, adult, or child protection convictions, charges, or investigations must be immediately reported by the agency to the Department ~~when the agency learns of the conviction~~. ~~(7-1-24)~~( )

**054. Providers Subject to Background Check Requirements**. ~~The following providers must receive a clearance:~~ ~~(7-1-24)~~( )

**a.** Contracted Non-Emergency Medical Transportation (NEMT) Providers. All staff of ~~transportation~~ NEMT providers having contact with participants except for ~~i~~Individuals ~~c~~Contracted NEMT ~~as transportation~~ providers defined in ~~Subsection 870.02 of~~ these rules. ~~(7-1-24)~~( )

**b.** Provider types deemed by the Department to be at high risk for fraud, waste, and abuse under ~~Subsection 200.02 of~~ these rules and 42 CFR 455~~.434~~ Subpart E. ~~(7-1-24)~~( )

**010. DEFINITIONS: A THROUGH H.**
For the purposes of these rules, the following terms are used as defined below: (3-17-22)

~~**01. Abortion**. The medical procedure necessary for the termination of pregnancy endangering the life of the woman, or the result of rape or incest, or determined to be medically necessary in order to save the health of the woman.~~ ~~(3-17-22)~~

0~~2~~1. **Amortization**. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (3-17-22)

0~~3~~2. **Ambulatory Surgical Center (ASC)**. Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (3-17-22)

0~~4~~3. **Audit**. An examination of provider records on the basis of which an opinion is expressed representing the compliance of a provider's financial statements and records with Medicaid ~~law,~~ regulations~~, and rules~~. ~~(3-17-22)~~( )

0~~5~~4. **Auditor**. The individual or entity designated by the Department to conduct the audit of a provider's records. (3-17-22)

~~**06. Audit Reports.** (3-17-22)~~

~~**a.** Draft Audit Report. A preliminary report of the audit finding sent to the provider for the provider's review and comments. (3-17-22)~~

~~**b.** Final Audit Report. A final written report containing the results, findings, and recommendations, if any, from the audit of the provider, as approved by the Department. (3-17-22)~~

~~**c.** Interim Final Audit Report. A written report containing the results, findings, and recommendations, if any, from the audit of the provider, sent to the Department by the auditor. (3-17-22)~~

~~**07. Bad Debts**. Amounts due to provider as a result of services rendered, but which are considered uncollectible. (3-17-22)~~

0~~8~~5. **Basic Plan**. The ~~medical assistance~~ Medicaid benefits included under this chapter of rules. ~~(3-17-22)~~( )

~~**09. Buy-In Coverage**. The amount the State pays for Medicare Part B of Title XVIII of the Social Security Act on behalf of eligible participants. (3-17-22)~~

~~**10. Certified Registered Nurse Anesthetist (CRNA)**. A Licensed Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (3-17-22)~~

~~11~~06. **Claim**. An itemized bill for services rendered to one (1) participant by a provider and submitted to the Department for payment. (3-17-22)

~~**12. CFR**. Code of Federal Regulations. (3-17-22)~~

~~**13. Clinical Nurse Specialist (CNS)**. A licensed registered nurse who meets all the applicable requirements to practice as clinical nurse specialist according to the regulations in the state where services are provided. (3-17-22)~~

~~14~~07. **CMS**. Centers for Medicare and Medicaid Services. (3-17-22)

~~15~~08. **CMS/Medicare DME Coverage Manual**. Medicare Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual. (3-17-22)

~~16. **Co-Payment**. The amount a participant is required to pay to the provider for specified services.~~ ~~(3-17-22)~~

~~17~~09. **Cost Report**. A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (3-17-22)

1~~8~~0. **Customary Charges**. Customary charges are the rates charged to Medicare participants and ~~to~~ other paying patients ~~liable for such charges,~~ as reflected in the facility's records. Those charges are adjusted downward, when the provider does not impose such charges on most patients liable for payment on a charge basis or, when the provider fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt as described in ~~Chapter 3, Sections 310 and 312,~~ the PRM. ~~(3-17-22)~~( )

1~~9~~1. **Department**. The Idaho Department of Health and Welfare or a person authorized to act on its behalf ~~of the Department~~. ~~(3-17-22)~~( )

~~20~~12. **Director**. The Director of the ~~Idaho~~ Department ~~of Health and Welfare~~ or their designee. ~~(3-17-22)~~( )

~~21~~3. **Dual Eligibles**. Medicaid participants who are also eligible for Medicare. (3-17-22)

~~22~~14. **Durable Medical Equipment (DME)**. Equipment and appliances that: (3-17-22)

**a.** Are primarily and customarily used to serve a medical purpose; (3-17-22)

**b.** Are generally not useful to an individual in the absence of a disability, illness, or injury; (3-17-22)

**c.** Can withstand repeated use; (3-17-22)

**d.** Can be reusable or removable; (3-17-22)

**e.** Are suitable for use in any setting in which normal life activities take place; and (3-17-22)

**f.** Are reasonable and medically necessary for the treatment of a disability, illness, or injury ~~for a Medicaid participant~~. ~~(3-17-22)~~( )

~~23. **Emergency Medical Condition**. A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:~~ ~~(3-17-22)~~

~~a. Placing the health of the individual, or, with respect to a pregnant woman, the health of the woman or unborn child, in serious jeopardy.~~ ~~(3-17-22)~~

~~b. Serious impairment to bodily functions.~~ ~~(3-17-22)~~

~~c. Serious dysfunction of any bodily organ or part.~~ ~~(3-17-22)~~

~~24. **EPSDT**. Early and Periodic Screening, Diagnostic, and Treatment services.~~ ~~(3-17-22)~~

~~25~~15. **Facility**. Facility refers to a hospital, nursing facility, or intermediate care facility for individuals

with intellectual disabilities. (3-17-22)

~~26. Federally Qualified Health Center (FQHC). An entity that meets the requirements of 42 U.S.C Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (3-17-22)~~

~~27~~16. **Fiscal Year**. An accounting period that consists of twelve (12) consecutive months. (3-17-22)

~~28~~17. **Healthy Connections**. The primary care case management model of managed care under Idaho Medicaid. (3-17-22)

~~29. Home Health Services. Services and items that are: (3-17-22)~~

~~a. Ordered by a physician or licensed practitioner of the healing arts as part of a home health plan of care; (3-17-22)~~

~~b. Performed by a licensed or qualified professional; (3-17-22)~~

~~c. Typically received by a Medicaid participant at the participant's place of residence; and (3-17-22)~~

~~d. Reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (3-17-22)~~

~~30. Hospital. A hospital as defined in Section 39-1301(a), Idaho Code. (3-17-22)~~

~~31. Hospital-Based Facility. A nursing facility that is owned, managed, or operated by, or is otherwise a part of a licensed hospital. (3-17-22)~~

**011. DEFINITIONS: I THROUGH O.**

01. **Idaho Medicaid Provider Handbook**. A document that contains policy for the implementation and operations of the Medicaid program. ( )

0~~1~~2. **Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)**. An entity licensed as an ICF/IID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (7-1-24)

0~~2~~3. **Idaho Behavioral Health Plan (IBHP)**. A ~~prepaid ambulatory health plan (~~PA~~I~~HP~~)~~ that provides ~~outpatient~~ behavioral health coverage for Medicaid~~-eligible children and adults~~ participants. ~~Outpatient b~~Behavioral health services include mental health and substance use disorder treatment and case management services. The ~~coordination and~~ provision of behavioral health services as authorized through the IBHP contract are provided to ~~qualified, enrolled~~ participants by a~~ statewide~~ network of~~ professionally licensed and certified~~ behavioral health providers. ~~(7-1-24)~~( )

~~03. Idaho Infant Toddler Program (ITP). Serves children from birth through the end of their 36th month of age who meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C. (7-1-24)~~

~~04. In-Patient Hospital Services. Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (3-17-22)~~

0~~5~~4. **Intermediary**. Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-17-22)

~~06. Intermediate Care Facility Services. Services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. (7-1-24)~~

**075.** **Legal Representative**. A parent ~~with custody of a minor child, one who holds a legally executed and effective power of attorney for health decisions,~~ or a court-appointed guardian ~~whose powers include the power~~ or custodian legally authorized to make health care decisions for a participant. ~~(3-17-22)~~( )

~~**08. Legend Drug**. A drug that requires, by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient.~~ ~~(3-17-22)~~

**096.** **Level of Care**. The classification in which a participant is placed, based on severity of need for institutional care. (3-17-22)

~~**10. Licensed, Qualified Professionals**. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho.~~ ~~(3-17-22)~~

~~**11. Licensed Practitioner of the Healing Arts**. The term includes the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), and physician assistants (PA), as defined in these rules.~~ ~~(7-1-24)~~

**1207.** **Lock-In Program**. An administrative sanction, required of a participant found to have misused the services provided by the ~~Medical Assistance~~ Medicaid Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. ~~(3-17-22)~~( )

~~**13. Locum Tenens/Reciprocal Billing**. The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less.~~ ~~(3-17-22)~~

**1408.** **Medical Assistance**. Payments for part or all of the cost of services, capitation payments, or managed care costs funded by Titles XIX or XXI of the federal Social Security Act. ~~(7-1-24)~~( )

~~**15. Medicaid**. Idaho's Medical Assistance Program.~~ ~~(3-17-22)~~

**1609.** **Medicaid-Related Ancillary Costs**. Services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (7-1-24)

**170.** **Medical Necessity (Medically Necessary)**. A service is medically necessary if: (3-17-22)

**a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; ~~and~~ ~~(3-17-22)~~( )

**b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly; (3-17-22)

**c.** It meets any applicable Department criteria. Services that do not meet criteria require a prior authorization; ( )

~~**e**~~**d.** Medical services must be: (3-17-22)

i. Of a quality that meets professionally-recognized standards of health care; and (3-17-22)

ii. Substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-17-22)

**181.** **Medical Supplies**. Healthcare-related items that are consumable, disposable, or cannot withstand repeated use by more than one (1) individual, are suitable for use in any setting in which normal life activities take place, and are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (3-17-22)

~~**19.** **Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual (CMS/Medicare DME Coverage Manual)**. A publication incorporated in Section 004 of these rules that contains information on DME supplier enrollment, documentation, claim submission, coverage, appeals, and overpayments. (7-1-24)~~

~~**20.** **Nurse Midwife (NM)**. An advanced practice registered nurse who meets all the applicable requirements to practice as a nurse midwife according to state regulations where the services are provided. (7-1-24)~~

**212.** **Nominal Charges**. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-17-22)

~~**22.** **Non-Legend Drug**. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-17-22)~~

~~**23.** **Non-Physician Practitioner (NPP)**. A non-physician practitioner, previously referred to as a midlevel practitioner, comprises the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), pharmacist (RPh), and physician assistants (PA), as defined in these rules. (3-17-22)~~

~~**24.** **Nurse Practitioner (NP)**. A person who meets all the applicable requirements to practice as a nurse practitioner according to state regulations where the services are provided. (7-1-24)~~

~~**25.** **Nursing Facility (NF)**. An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-17-22)~~

~~**26.** **Ordering, Rendering, Prescribing Providers**. Providers who order services, refer for services or prescribe services, products, or prescription drugs for Medicaid participants. (3-17-22)~~

**2713.** **Orthotic**. Pertaining to or promoting the support of an impaired joint or limb. (3-17-22)

~~**28.** **Outpatient Hospital Services**. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-17-22)~~

**2914.** **Out-of-State Care**. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-17-22)

**012. DEFINITIONS: P THROUGH Z.**

**01.** **Participant**. A person eligible for and enrolled in ~~the Idaho Medical Assistance Program~~ Medicaid. ~~(3-17-22)~~( )

**02.** **Patient**. The person undergoing treatment or receiving services from a provider. (3-17-22)

~~**03.** **Pharmacist**. A person who meets all the applicable requirements to practice as a licensed pharmacist according to state regulations where the services are provided. (7-1-24)~~

~~**04.** **Physician**. A person possessing a Doctor of Medicine (MD) degree or a Doctor of Osteopathy~~

~~(DO) degree, and within the State or United States territory services are provided is either licensed to practice medicine, is a resident enrolled in a postgraduate medical training program, is a licensed international medical graduate, or is a licensed bridge year physician.~~ ~~(7-1-24)~~

~~**05. Physician Assistant (PA).** A person who meets all the applicable requirements to practice as a licensed PA according to state regulations where the services are provided.~~ ~~(7-1-24)~~

0~~6~~3. **Plan of Care**. A written description of medical, remedial, habilitative, or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services, and treatments are identified specifically as to amount, type, and duration of service. (7-1-24)

0~~7~~4. **Prepaid Ambulatory Health Plan (PAHP)**. Under 42 CFR 438.2~~, an entity that provides medical services to enrollees under contract with the Department on the basis of prepaid capitation payments, or other arrangements that do not use State Plan payment rates. The PAHP does not provide or arrange for, and is not responsible for the provision of any inpatient hospital or institutional services for its enrollees, and does not have a comprehensive risk contract~~. ~~(7-1-24)~~( )

**05. Prepaid Inpatient Health Plan (PIHP)**. As defined under 42 CFR 438.2. ( )

0~~8~~6. **Private Rate**. Rate most frequently charged to private patients for a service or item. (3-17-22)

**07. Prior Authorization**. Prior authorization means a written, faxed, or electronic approval from the Department that permits payment or coverage of a medical item or service that is covered only by such authorization. ( )

0~~9~~8. **Prosthetic Device**. Replacement, corrective, or supportive devices~~ prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of their practice as defined by state law~~ to: ~~(3-17-22)~~( )

**a.** Artificially replace a missing portion of the body; or (3-17-22)

**b.** Prevent or correct physical deformities or malfunctions; or (3-17-22)

**c.** Support a weak or deformed portion of the body. (3-17-22)

**d.** Computerized communication devices are not included in this definition~~ of a prosthetic device~~. ~~(3-17-22)~~( )

~~1~~09. **Provider**. Any individual~~,~~ acting in concert with Section 200 including, but not limited to certified registered nurse anesthetists, nurse practitioners, nurse midwives, clinical nurse specialists, pharmacists, physician assistants, and physicians. Alternatively, a partnership, association, corporation, or organization~~, public or private,~~ that furnishes medical goods or services in compliance with these rules~~ and who has applied for and received a Medicaid provider number and who has entered into a written provider agreement with the Department under Section 205 of these rules~~. ~~(7-1-24)~~( )

~~**11. Provider Agreement**. A written agreement between the provider and the Department, entered into under Section 205 of these rules.~~ ~~(7-1-24)~~

1~~2~~0. **Provider Reimbursement Manual (PRM)**. A federal publication that specifies accounting treatments and standards for the Medicare program, CMS Publications 15-1 and 15-2, that are incorporated in Section 004 of these rules. (7-1-24)

~~**13. Psychologist, Licensed**. A person licensed to practice psychology according to state regulations where the services are provided.~~ ~~(7-1-24)~~

~~**14. Psychologist Extender**. A person who practices psychology under the supervision of a licensed psychologist who meets state regulations where the services are provided.~~ ~~(7-1-24)~~

~~15. **Public Provider**. A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality.~~ ~~(3-17-22)~~

~~16. **Qualified Interpreter**. A person who meets the definition of qualified interpreter under 28 CFR 35.104.~~ ~~(7-1-24)~~

1~~7~~1. **Quality Improvement Organization (QIO)**. An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid participants. ~~A QIO is formerly known as a Peer Review Organization (PRO).~~ ~~(3-17-22)~~( )

1~~8~~2. **Related Entity**. An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes the services, facilities, or supplies for the provider. (3-17-22)

~~19. **Registered Nurse (RN)**. A person who meets all the applicable requirements and is licensed to practice as an RN according to state regulations where the services are provided.~~ ~~(7-1-24)~~

13. **Retrospective Review**. A review of an item or service after it has been provided. The review determines if the item or service was medically necessary and conforms to Idaho Medicaid requirements. Claims that have already received payment may be subject to recoupment as detailed in IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct," if they are not medically necessary. ( )

~~20~~14. **Rural Health Clinic (RHC)**. An ~~outpatient~~ entity that meets the requirements of 42 USC Section 1395x(aa)(2). ~~It is primarily engaged in furnishing physicians and other medical and health services in rural, federally defined, medically underserved areas, or designated health professional shortage areas.~~ ~~(7-1-24)~~( )

~~21. **Rural Hospital-Based Nursing Facilities**. Hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of Census.~~ ~~(3-17-22)~~

~~22~~15. **Social Security Act**. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons who meet certain criteria. (3-17-22)

~~23~~16. **State Plan**. The contract between the state and federal government under 42 USC Section 1396a(a). (3-17-22)

~~24~~17. **Supervision**. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (3-17-22)

~~25~~18. **Title XVIII**. Title XVIII of the Social Security Act, known as ~~Medicare,~~ Health Insurance for The ~~a~~Aged~~, blind,~~ and ~~d~~Disabled ~~individuals~~ or Medicare and administered by the federal government. ~~(3-17-22)~~( )

~~26~~19. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-17-22)

2~~7~~0. **Title XXI**. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-17-22)

2~~8~~1. **Third Party**. Includes a person, institution, corporation, or public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (7-1-24)

2~~9~~2. **Transportation**. The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi, or common carrier. (7-1-24)

~~013. MEDICAL CARE ADVISORY COMMITTEE (MCAC).~~
~~The Director of the Department will appoint a MCAC to advise on health and medical services.~~ ~~(7-1-24)~~

~~**01.** **Membership**. The MCAC will include the following: (7-1-24)~~

~~**a.** Licensed physicians and other health professionals familiar with the medical needs of low-income individuals and the resources available and required for their care; and (7-1-24)~~

~~**b.** Members of stakeholder organizations and Medicaid participants. (7-1-24)~~

~~**02.** **Organization**. The MCAC will: (7-1-24)~~

~~**a.** Consist of not more than twenty-two (22) members; (7-1-24)~~

~~**b.** Be appointed by the Director to the MCAC to serve three (3) year terms, whose terms are to overlap; (7-1-24)~~

~~**c.** Elect a chairman and a vice-chairman to serve a two (2) year term; (7-1-24)~~

~~**d.** Meet at least quarterly; and (3-17-22)~~

~~**e.** Submit an activity report and recommendations to the Director at least annually. (7-1-24)~~

~~**03.** **Policy Function**. The MCAC must be given opportunity to participate in medical assistance policy development and program administration. (7-1-24)~~

~~**04.** **Staff Assistance**. The MCAC must be provided staff assistance from within the Department and independent technical assistance as needed to enable them to make effective recommendations, and will be provided with travel and per diem costs, where necessary. (7-1-24)~~

**0143. -- 099. (RESERVED)**

## GENERAL PARTICIPANT PROVISIONS
## (Sections 100-199)

~~**100. ELIGIBILITY FOR MEDICAL ASSISTANCE.**~~
~~IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," are applicable in determining eligibility for medical assistance. (7-1-24)~~

**1010. -- 124. (RESERVED)**

**125. MEDICAL ASSISTANCE PROCEDURES.**

**01. ~~Issuance of~~ Identification Cards**. ~~When a person is determined eligible for medical assistance, t~~The Department will issue a Medicaid identification card to ~~the~~ eligible participants which will contain the name of the participant and their Medicaid identification number. When requested, the Department will give providers ~~of medical services~~ eligibility information regarding participants so ~~that~~ services may be provided. Each Field Office will have information available for participants regarding the amount, duration, and scope of available care and services, the manner in which care and services may be secured, and how to use the identification card.
~~(3-17-22)~~( )

~~**02.** **Identification Card Information**. An identification card will be issued to each participant and will contain the following information: (3-17-22)~~

~~**a.** The name of the participant to whom the card was issued; and (3-17-22)~~

~~**b.** The participant's Medicaid identification number; and (3-17-22)~~

~~c. The card number.~~ ~~(3-17-22)~~

~~03. Information Available for Participants. The following information will be available at each Field Office for use by each medical assistance participant:~~ ~~(3-17-22)~~

~~a. The amount, duration and scope of the available care and services; and~~ ~~(3-17-22)~~

~~b. The manner in which the care and services may be secured; and~~ ~~(3-17-22)~~

~~c. How to use the identification card.~~ ~~(3-17-22)~~

**126. -- 149. (RESERVED)**

**150. CHOICE OF PROVIDERS.**

**~~01. Service Selection.~~** ~~Each p~~Participants may obtain any services available from any participating ~~institution, agency, pharmacy, or practitioner~~ provider of their choice, unless enrolled in Healthy Connections~~ or a Prepaid Ambulatory Health Plan~~, a Managed Care Organization, ~~(~~PAHP~~)~~, or PIHP that limits provider choice, or a lock-in program. This~~, however,~~ does not prohibit the Department from establishing the fees that will be paid to providers~~ for furnishing medical and remedial care available~~ under~~ the Medical Assistance Program~~ Medicaid, or from setting standards relating to the qualifications of providers~~ of such care~~. ~~(3-17-22)~~( )

**~~02. Lock In Option.~~** ~~(3-17-22)~~

~~a. The Department may implement a total or partial lock-in program for any participant found to be misusing the Medical Assistance Program according to provisions in Sections 910 through 918 of these rules.~~ ~~(3-17-22)~~

~~b. In situations where the participant has been restricted to a participant lock in program, that participant may choose the physician and pharmacy of their choice. The providers chosen by the lock-in participant will be identified in the Department's Eligibility Verification System (EVS). This information will be available to any Medicaid provider who accesses the EVS.~~ ~~(3-17-22)~~

**151. -- 159. (RESERVED)**

**160. RESPONSIBILITY FOR KEEPING APPOINTMENTS.**
~~The p~~Participants~~ is solely~~ are responsible for making and keeping~~ an~~ appointments with the provider. The Department will not reimburse providers when participants do not attend scheduled appointments. Providers~~ may~~ cannot bill participants for missed appointments. ~~(3-17-22)~~( )

**161. -- ~~164.~~ ~~(RESERVED)~~**

**~~165. COST SHARING.~~**

**~~01. Co-Payments.~~** ~~When a participant accesses certain services inappropriately, the provider can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing."~~ ~~(3-17-22)~~

**~~02. Premiums.~~** ~~A participant can be required to share in the cost of basic plan benefits in the form of a premium as described in IDAPA 16.03.18, "Medicaid Cost-Sharing."~~ ~~(3-17-22)~~

**~~166. --~~199. (RESERVED)**

**GENERAL PROVIDER PROVISIONS**
**(Sections 200-299)**

**200. INDIVIDUAL PROVIDERS – REQUIREMENTS.**

**01. Provider Eligibility**. Be licensed or registered as required by the applicable jurisdiction for the profession, have a National Provider Identification or Medicaid provider number, and enter into a written provider agreement with the Department. ( )

**02. Network Limitation**. The Department may contract with a limited number of providers of certain Medicaid services. ( )

**03. Practice Authority**. Provide services within the practice authority for the applicable profession consistent with the laws and regulations of the state where services are provided. ( )

**04. Standard of Care**. Provide services within the accepted standard of care that would be provided in the same or similar setting by a reasonable and prudent provider with similar education, training, and experience as determined by the applicable oversight authority. ( )

**05. Express Exclusions**. Not perform any service that is expressly prohibited by state or federal regulations. Further no reimbursement will be provided for any service that is expressly excluded by a provider in these rules. ( )

**200 1. PROVIDER APPLICATION PROCESS.**

**01. ~~Provider~~ Application**. Providers who meet Medicaid enrollment requirements may apply for Idaho Medicaid provider status with the Department. All ~~healthcare~~ providers ~~who are~~ eligible for a National Provider Identifier (NPI) must apply using that identifying number. For providers not eligible for an NPI, the Department will assign a provider number upon approval of the application. ~~(3-17-22)~~( )

~~**02. Screening Levels.** In accordance with 42 CFR 455.450, the Department will assign risk levels of "limited," "moderate," or "high" to defined groups of providers. These assignments and definitions will be published in the provider handbook. (3-17-22)~~

~~**03. Medicare Enrollment Requirement for Specified Providers.** The following providers must enroll as Medicare providers or demonstrate enrollment with another state's Medicaid agency prior to enrollment or revalidation as an Idaho Medicaid provider. (3-17-22)~~

~~**a.** Any providers classified in the "moderate" or "high" categorical risk level, as defined in the provider handbook. (3-17-22)~~

~~**b.** Any provider type classified as an institutional provider by Medicare. (3-17-22)~~

**0 2. Disclosure of Information ~~by Providers and Fiscal Agents~~**. All enrolling providers and ~~their fiscal agents~~ any additional disclosable party must comply with the disclosure requirements ~~as stated~~ in 42 CFR 455, Subpart B, "Disclosure of Information by Providers and Fiscal Agents." ~~(3-17-22)~~( )

**0 3. Denial of Provider Agreement**. The Department may deny provider status by refusing a request to enter into a provider agreement, refusing to extend an existing agreement, or refusing to enter into additional agreements with any ~~individual or entity~~ provider. Denial ~~R~~reasons ~~for denying provider status~~ include those described in IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct~~,~~." ~~Section 265.~~ ~~(3-17-22)~~( )

**0 4. Mandatory Denial of Provider Agreement**. ~~The Department will deny a r~~Request for a provider agreement are denied when: ~~(3-17-22)~~( )

**a.** The provider fails to meet the qualifications required by rule or by any applicable licensing board; (3-17-22)

**b.** The provider was a managing employee, or had an ownership interest, as defined in 42 CFR Section 455.101, in any entity ~~that was~~ and: ( )

i. ~~p~~Previously found by the Department to have engaged in fraudulent ~~conduct,~~ or abusive conduct related to the Medicaid program~~,~~; ~~or has~~ ( )

ii. ~~d~~Demonstrated an inability to comply with the requirements related to the provider status for which application is made, including submitting false claims or violating provisions of any provider agreement; ~~(3-17-22)~~( )

**c.** ~~The provider was a managing employee, or had an ownership interest, as defined in 42 CFR Section 455.101, in any entity that f~~Failed to repay the Department for any overpayments~~,~~ or ~~to repay claims previously found by the Department to have been paid improperly~~ improper claims, whether the failure resulted from refusal, bankruptcy, or otherwise, unless prohibited by law; ~~(3-17-22)~~( )

**d.** The provider employs as a managing employee, contracts for any management services, shares any ownership interests, or would be considered a related party to any individual or entity identified in Subsections 200.06~~5~~5.a. through 200.06~~5~~5.~~c~~b. of this rule. ~~(3-17-22)~~( )

**e.** The provider fails to comply with any applicable requirement under 42 CFR 455. (3-17-22)

**f.** The provider is precluded from enrollment due to a temporary moratorium issued by the Secretary of Health and Human Services ~~in accordance with~~ under 42 CFR 455.470. ~~(3-17-22)~~( )

**g.** The provider is currently suspended or terminated from Medicare or Medicaid in any state~~, or has been terminated from Medicare or Medicaid in any state~~. ~~(3-17-22)~~( )

**20~~1~~2. -- 204. (RESERVED)**

**205. ~~AGREEMENTS WITH~~ PROVIDER~~S~~ AGREEMENTS.**

**01. ~~In~~ General**. All individuals or ~~organizations~~ entities must enter into a written provider agreement accepted by the Department prior to receipt of any reimbursement for services. Agreements may contain any terms or conditions deemed appropriate by the Department. All provider agreements must be signed by ~~the provider or by an owner or officer~~ an authorized representative who has the legal authority to bind the provider in the agreement. ~~(3-17-22)~~( )

**02. Federal Disclosure Requirements**. ~~To~~ Providers must comply with the disclosure requirements in 42 CFR 455, Subpart B~~, each provider, other than an individual practitioner or a group of practitioners, must disclose to the Department:~~. ~~(3-17-22)~~( )

~~**a.** The full name and address of each individual who has either direct or indirect ownership interest in the disclosing entity or in any subcontractor of five percent (5%) or more prior to entering into an agreement or at the time of survey and certification; and (3-17-22)~~

~~**b.** Whether any person named in the disclosure is related to another person named in the disclosure as a spouse, parent, or sibling. (3-17-22)~~

**03. ~~Provider Agreement~~ Enforcement Actions and Terminations**. ~~Provider agreements may be terminated with or without cause. Terminations for cause may be appealed as a contested case in accordance with the IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ The Department may~~, at its discretion,~~ take any of the following actions for cause based on the ~~provider's~~ conduct ~~or the conduct~~ of the provider, or its employees or agents, or when the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation: ~~(3-17-22)~~( )

**a.** Require corrective actions ~~as described~~ in IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct," Section 270. ~~(3-17-22)~~( )

**b.** Require a corrective action plan to be submitted by the provider to address noncompliance with the provider agreement; (3-17-22)

**c.** Reduce, limit, or suspend payment of claims pending the submission, acceptance, or completion of a corrective action plan; (3-17-22)

**d.** Limit or suspend provision of services to participants who have not previously established services with the provider pending the submission, acceptance, or completion of a corrective action plan; or (3-17-22)

**e.** Terminate the provider's agreement. (3-17-22)

~~**04**~~i. ~~**Termination of Provider Agreements**. Due to the need to respond quickly to state and federal mandates, as well as the changing needs of the State Plan, t~~The Department may terminate provider agreements with or without cause by giving written notice to the provider as set forth in the agreement. ~~If an agreement does not provide a notice period, the period is twenty-eight (28) days.~~ ( )

ii. Terminations without cause may result from elimination or change of programs or requirements, or the provider's inability to continue providing services due to the actions of another agency or board. Terminations without cause are not subject to contested case proceedings since the action will either affect a class of providers, or will result from the discretionary act of another regulatory body. If an agreement does not provide a notice period, the period is twenty-eight (28) days. ~~(3-17-22)~~( )

iii. Terminations for cause may be appealed. ( )

**04. Crossover Only Providers**. Providers of professional services may enroll as crossover only providers that bill for dual eligible participants' Medicare coinsurance and deductible. Crossover only providers act as non-billing ORPs for all other participants. ( )

**05. Non-billing ORP**. Providers may enroll as non-billing ORPs, provided they follow Sections 200 and 205 of these rules. Non-billing ORPs are not eligible for reimbursement and are otherwise not Medicaid providers. ( )

**206. INDIVIDUAL PROVIDERS – GENERAL APPROACH.**
An individual provider must meet all the following conditions: ( )

**01. Provider Eligibility**. Be licensed or registered by the applicable licensing board of the profession, apply for and receive a Medicaid provider number, and enter into a written provider agreement with the Department. ( )

**02. Practice Authority**. Provide services within the practice authority for the applicable profession consistent with the laws and regulations of the state and the applicable licensing board of the profession. ( )

**03. Standard of Care**. Provide services within the accepted standard of care that would be provided in the same or similar setting by a reasonable and prudent provider with similar education, training, and experience as determined by the applicable licensing board of the profession. ( )

**04. Express Exclusions**. Not perform any service that is expressly prohibited by state or federal law. Further, no reimbursement will be provided for any service that is expressly excluded to be performed by a provider. ( )

**20~~6~~7. -- 209. (RESERVED)**

**210. CONDITIONS FOR PAYMENT.**

**01. Participant Eligibility**. The Department will reimburse providers for medically ~~care and~~ necessary services~~, regardless of the current eligibility status of the medical assistance participant in the month of payment, provided~~ when a complete and properly submitted claim for payment has been received and each of the following conditions are met: ~~(3-17-22)~~( )

~~a.~~ ~~The participant was found eligible for medical assistance for the month, day, and year during which the medical care and services were rendered;~~ ~~(3-17-22)~~

~~b~~a. The participant received ~~such medical care and~~ services no earlier than the third month before ~~the month in which~~ an application was made on ~~such~~ the participant's behalf; ~~(7-1-24)~~( )

~~c~~b. The provider verified the participant's eligibility on the date ~~the~~ of service ~~was rendered~~ and can provide proof of the eligibility verification; ~~and~~ ~~(7-1-24)~~( )

c. Services provided after the participant's date of death cannot be reimbursed; and ( )

d. Not more than twelve (12) months have elapsed since ~~the month of~~ the latest participant services for which such payment is being made. Medicare cross-over claims are excluded from the twelve (12) month submittal limitation. When a participant is determined retroactively eligible, the Department will reimburse providers for services within the period of retroactive eligibility, if a claim is submitted within twelve (12) months of the participant's eligibility determination. ~~(3-17-22)~~( )

02. ~~Time Limits~~Comply With All Applicable Regulations. ~~The time limit set forth in Subsection 210.01.d. of this rule does not apply with respect to retroactive eligibility adjustment. When participant eligibility is determined retroactively, the Department will reimburse providers for services within the period of retroactive eligibility if a claim for those services is submitted within twelve (12) months of the date of the participant's eligibility determination.~~ ~~(3-17-22)~~( )

03. **Acceptance of State Payment**. By participating in ~~the Medical Assistance Program~~ Medicaid, providers agree to accept, as payment in full, the amounts paid by the Department for covered services ~~to Medicaid participants. Providers also agree to provide all materials and services without unlawfully discriminating on the grounds of race, age, sex, creed, color, national origin, or physical or intellectual disability~~. Participants cannot be billed for covered services. Providers may only bill participants for non-covered services when the participant is notified in writing before the service is provided that it is non-covered and its cost. ~~(3-17-22)~~( )

~~04.~~ ~~**Payment in Full**. If a provider accepts Medicaid payment for a covered service, the Medicaid payment must be accepted as full payment for that service, and the participant cannot be billed for the difference between the billed amount and the Medicaid allowed amount.~~ ~~(3-17-22)~~

0~~5~~4. **Medical Care Provided Outside the State of Idaho**. Out-of-state medical care is subject to the same utilization review and other Medicaid coverage requirements and restrictions as medical care received within the state of Idaho. (3-17-22)

0~~6~~5. **Ordering, Prescribing, and Referring Providers**. Any service ~~or supply~~ ordered, prescribed, or referred by a ~~physician or other qualified professional~~ provider who is not an enrolled Medicaid provider will not be reimbursed by the Department. ~~(3-17-22)~~( )

0~~7~~6. **Referrals ~~From Participant's Assigned Primary Care Provider~~**. Medicaid services may require a referral from the participant's assigned primary care provider. Services requiring a referral are listed in the Idaho Medicaid Provider Handbook. Services provided without a ~~referral, when one is~~ required referral, are not covered and are subject to sanctions~~,~~ and recoupment~~, or both. The Department may change the services that require a referral after appropriate notification of Medicaid eligible individuals and providers as specified in Section 563 of these rules~~. ~~(3-17-22)~~( )

07. **Prior Authorizations**. The Department may require a prior authorization for any service. Unless otherwise specified: ( )

a. Medicaid payment will be denied for the medical item or service or portions thereof that were provided prior to the submission of a valid prior authorization request. An exception may be allowed on a case-by-case basis, when events beyond the provider's control prevented the request's submission. ( )

b. The provider cannot bill the Medicaid participant for services not reimbursed by Medicaid solely

because the authorization was not requested or obtained in a timely manner. ( )

**c.** An item or service will be deemed prior approved where the participant was not eligible for Medicaid when the service was provided, but was subsequently determined eligible under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled," or IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and the medical item or service provided is authorized by the Department. ( )

**d.** A Notice of Decision approving or denying a requested item will be issued to the participant by the Department. The participant has twenty-eight (28) days from the date of the denial to request a fair hearing on the decision. ( )

**08. Follow-up Communication ~~with Assigned Primary Care Provider~~**. Medicaid services may require timely follow-up communication with the participant's assigned primary care provider. Services requiring post-service communication with the primary care provider and time frames for that communication are listed in the Idaho Medicaid Provider Handbook. Services provided without timely communication of care outcomes~~, when communication is required,~~ are not covered and ~~are~~ subject to sanctions~~,~~ and recoupment~~, or both. The Department may change the services that require communication of care outcomes after appropriate notification of Medicaid eligible individuals and providers as specified in Section 563 of these rules.~~ ~~(7-1-24)~~( )

~~**09. Virtual Care**. Services delivered via virtual care under Title 54, Chapter 57, Idaho Code, must be identified as such under billing requirements published in the Idaho Medicaid Provider Handbook. Virtual care services billed without being identified as such are not covered. Virtual care services may be reimbursed within limitations defined by the Department in the Idaho Medicaid Provider Handbook. Fee for service reimbursement is not available for asynchronous services except remote monitoring.~~ ~~(7-1-24)~~

~~**10. Services Subject to Electronic Visit Verification (EVV)**. Services requiring EVV compliance are subject to quality review. Services billed without the minimum essential EVV elements, under Section 1903(l)(2) of the Social Security Act, may be denied, delayed, or subject to sanctions or recoupment, or both, under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct."~~ ~~(7-1-24)~~

**211. -- 214. (RESERVED)**

**215. THIRD PARTY LIABILITY.**

**01. Determining Liability ~~of Third Parties~~**. The Department will take reasonable measures to determine any legal liability of third parties for ~~medical care and~~ services rendered to a participant. ~~(3-17-22)~~( )

**02. ~~Third Party Liability as a~~ Current Resource**. The Department is to treat any third party liability as a current resource ~~when such liability is found to exist~~ and payment by the third party has been made or will be made within a reasonable time. ~~(3-17-22)~~( )

**03. Withholding Payment**. The Department ~~must~~ will not withhold payment ~~on behalf of a participant~~ because of the liability of a third party when ~~such~~ liability~~, or the amount thereof,~~ cannot be currently established or is not currently available to pay the participant's medical expense. ~~(3-17-22)~~( )

**04. Seeking Third Party Reimbursement**. The Department will seek reimbursement from a third party when ~~the party's~~ liability ~~is established after reimbursement to the provider is made, and in any other case in which the liability of a third party~~ existed, but was not treated as a current resource, with the exceptions provided ~~in Subsection 215.05 of~~ under this rule. ~~(3-17-22)~~( )

**a.** The Department will seek reimbursement from a participant ~~when a participant's liability is established after reimbursement to the provider is made; and~~ ~~(3-17-22)~~

~~**b.** In any other situation in which the participant has received direct payment from any third party resource and has not forwarded the money to the Department for services or items received.~~ ~~(3-17-22)~~( )

**05. Billing Third Parties First**. Medicaid providers must bill all other sources of direct third party

payment, with the following exceptions: (3-17-22)

**a.** When the resource is a court-ordered absent parent and there are no other viable resources available, the claims will be ~~paid~~ reimbursed and the resources billed by the Department; ~~(3-17-22)~~( )

**b.** Preventive pediatric care including early and periodic screening, ~~and diagnosis.~~ diagnostic, and treatment ~~Screening and diagnosis program~~ services which includes: ~~(3-17-22)~~( )

i. ~~Regularly scheduled~~Well Child examinations ~~and evaluations of the general physical, dental, and mental health, growth, development, and nutritional status of~~ for children under age twenty-one (21), years when provided according to guidance ~~for child wellness exams published~~ in the Idaho Medicaid ~~General~~ Provider ~~and Participant~~ Handbook; ~~(3-17-22)~~( )

~~ii. Immunizations recommended by the American Academy of Pediatrics immunization schedule; (3-17-22)~~

ii~~i~~. Diagnosis services to identify the nature of an illness or other problem by examination of the symptoms. (3-17-22)

**c.** When prior authorization has been approved ~~according to Section 883 of~~ under these rules, treatment services to control, correct, or ameliorate health problems found through diagnosis and screenings; ~~(3-17-22)~~( )

**d.** If the claim is for preventative pediatric care ~~as described in Subsection 215.05.b of~~ under this rule, the Department will make payment for the service provided in its fee schedule and will seek reimbursement from the third party ~~according to~~ under 42 U.S.C. 1396a(a)(25)(E). ~~(3-17-22)~~( )

**06. Accident Determination**. When the participant's Medicaid card indicates private insurance or when the diagnosis indicates an accident for which private insurance is often carried, ~~or both,~~ the claim will be suspended or denied until ~~it can be determined that there is no other source of payment~~ third party liability determination can occur. ~~(3-17-22)~~( )

**07. Third Party Payments**. The Department will pay the provider the lowest amount of the following: (3-17-22)

**a.** The provider's actual charge for the service; or (3-17-22)

**b.** The maximum allowable charge for the service as established by the Department in its pricing file. ~~If the service or item does not have a specific price on file, the provider must submit supporting documentation to the Department. Reimbursement will be based on the documentation~~; or ~~(3-17-22)~~( )

**c.** The third party-allowed amount minus the third party payment, or the patient liability as indicated by the third party. (3-17-22)

**08. Subrogation of Third Party Liability**. In all cases where the Department will be required to pay ~~medical expenses~~ for a participant ~~and that participant~~ who is entitled to recover any ~~or all such~~ medical expenses from any third party, the Department will be subrogated to the rights of the participant to the extent of the amount of ~~medical assistance~~ Medicaid benefits paid by the Department ~~as the result of the occurrence giving rise to the claim against the third party~~. ~~(3-17-22)~~( )

**a.** If litigation or a settlement in such a claim is pursued by the ~~medical assistance~~ Medicaid participant, the participant must notify the Department. ~~(3-17-22)~~( )

**b.** If the participant recovers funds ~~either by settlement or judgment,~~ from ~~such~~ a third party, the participant must repay the amount of benefits paid by the Department ~~on their behalf~~. ~~(3-17-22)~~( )

**09. Subrogation of Legal Fees**. (3-17-22)

**a.** If a ~~medical assistance~~ participant incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the Department is subrogated, the amount which the Department is entitled to recover, or any lesser amount which the Department may agree to accept ~~in compromise of its claim~~, will be reduced by ~~an amount which bears the same relation to~~ the total amount of attorney fees and court costs ~~actually~~ paid by the participant ~~as the amount actually recovered by the Department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the participant~~. ~~(3-17-22)~~( )

**b.** If a settlement or judgment is received by the participant that does not specify which portion ~~of the settlement or judgment~~ is for payment of medical expenses, it will be presumed that the settlement or judgment applies first to the medical expenses ~~incurred by the participant~~ in an amount equal to ~~the expenditure for benefits~~ that paid by the Department ~~as a result of the payment or payments to the participant~~. ~~(3-17-22)~~( )

**216. -- ~~224.~~ ~~(RESERVED)~~**

**~~225. REPORTING TO THE INTERNAL REVENUE SERVICE (IRS).~~**
~~In accordance with 26 U.S.C 6041, the Department must provide annual information returns to the IRS showing aggregate amounts paid to providers identified by name, address, and social security number or employer identification number.~~ ~~(3-17-22)~~

**~~226.~~ 229. (RESERVED)**

**230. GENERAL PAYMENT PROCEDURES.**

**01. Provided Services**. (3-17-22)

~~**a.** Each participant may consult a participating physician or provider of their choice for care and receive covered services by presenting their identification card to the provider, subject to restrictions imposed by participation in Healthy Connections or enrollment in a PAHP.~~ ~~(7-1-24)~~

~~**b**~~**a.** ~~The p~~Providers must obtain the required information from the Electronic Verification System (EVS) by using the Medicaid number on the identification card ~~from the Electronic Verification System (~~EVS~~)~~ and transfer the required information onto the appropriate claim form. Where the EVS indicates ~~that~~ a participant is enrolled in Healthy Connections, the provider must comply with referral or follow-up communication requirements under ~~Section 210 of~~ these rules. ~~(7-1-24)~~( )

~~**c**~~**b.** Upon providing the care and services to a participant, the provider or their agent must submit a properly completed claim to the Department including their usual and customary charge, which is the lowest charge by the provider to the general public for the same service including advertised specials. ~~(3-17-22)~~( )

~~**d**~~**c.** The Department is to process each claim received and make payment directly to the provider. (3-17-22)

~~**e**~~**d.** The Department will not supply claim forms. Forms needed to comply with the Department's unique billing requirements are included in the Idaho Medicaid Provider Handbook. (7-1-24)

**02. ~~Individual~~ Provider Reimbursement**. ( )

**a.** The Department will ~~not~~ pay the ~~individual~~ provider ~~more than~~ the lowest of: ~~(3-17-22)~~( )

~~**a**~~i. The provider's actual charge for service; or (3-17-22)

~~**b**~~ii. The maximum allowable charge for the service as established by the Department on its pricing file~~, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation~~ and Idaho Medicaid Provider Handbook; or ~~(3-17-22)~~( )

~~e~~iii. The Medicaid-allowed amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid. (3-17-22)

**b.** Services and items without a Medicare price on file are priced for the maximum allowable charge at the Department's discretion per the following: ( )

i. Historical cost or regional reimbursement data. ( )

ii. Percent of charge. ( )

iii. A copy of the manufacturer's suggested retail pricing (MSRP) or an invoice or quote from the manufacturer or wholesaler. Reimbursement will be seventy-five percent (75%) of MSRP or quote. If the pricing documentation is an invoice for items, reimbursement will be at cost plus ten percent (10%), plus shipping. ( )

vi. An invoice with the usual and customary charges of the provider, and documentation in the form of operation reports, chart notes or medical records. ( )

v. Home and community-based services are priced in accordance with approved service criteria. ( )

**03. Services Normally Billed Directly to the Patient**. If a provider ~~delivers~~ bills services ~~and it is customary for the provider to bill patients~~ directly ~~for such services~~ to patients, the provider must ~~complete the appropriate~~ submit a claim form ~~and submit it~~ to the Department for reimbursement. ~~(3-17-22)~~( )

**04. Reimbursement for Other Noninstitutional Services**. The Department will reimburse for all noninstitutional services ~~that are not included in other Department rules~~ unless otherwise specified, ~~but~~ as allowed ~~under Idaho's Medical Assistance Program~~ under 42 CFR Section 447.325. ~~(7-1-24)~~( )

**05. Cost Reporting**. Providers subject to filing a Medicaid cost report must use the Department designated reporting forms, unless the Department provides an exception. Requests to use alternate forms must be sent to the Department in writing, with samples attached, ninety (90) days prior to the report due date. Requests are not a reason for late filing. ( )

**06. Cost Settlement**. Following receipt of the finalized Medicare cost report and the timely receipt of other information requested by the Department to fairly cost settle with the provider, a certified letter with return receipt requested will be sent to the provider that sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. ( )

**a.** The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the cost report. ( )

**b.** A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed, and resolved through the reopening of the cost report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. ( )

**0~~5~~7. Review of Records**. ~~(3-17-22)~~

~~a.~~ The Department, the U.S. Department of Health and Human Services, and the Bureau of Compliance have the right to review records of providers and related entities receiving Medicaid reimbursement ~~for~~

~~covered services~~. These reviews may be conducted for audit purposes outside of processes in IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." ~~(7-1-24)~~( )

**~~b~~a.** The review of ~~participants'~~ medical and financial records must be conducted for the purposes of determining: ~~(3-17-22)~~( )

i. ~~The necessity for the c~~Care was necessary; or ~~(3-17-22)~~( )

ii. ~~That t~~Treatment was rendered under accepted medical standards of practice; or ~~(7-1-24)~~( )

iii. ~~That charges were not in excess of t~~The provider~~'s~~ billed their usual and customary rates; ~~or~~ ~~(3-17-22)~~( )

iv. Verification of actual costs for providing services; ( )

v. Provider's compliance with the provider agreement, reporting form instructions, and applicable regulations; ( )

vi. Reimbursement rates or settlements; or ( )

~~i~~vii. ~~That f~~Fraudulent or abusive treatment and billing practices are not taking place. ~~(3-17-22)~~( )

**~~e~~b.** Refusal of a provider to permit the Department to review records pertinent to ~~medical assistance~~ Medicaid will constitute grounds for: ~~(3-17-22)~~( )

i. Withholding provider payments ~~to the provider~~ until access to the requested information is granted; or ~~(3-17-22)~~( )

ii. Suspending the provider~~'s number~~. ~~(3-17-22)~~( )

~~**06. Lower of Cost or Charges**. Payment to providers, other than public providers furnishing such services free of charge or at nominal charges to the public, is the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers that furnish services free of charge, or at a nominal charge, are reimbursed fair compensation that is the same as reasonable cost.~~ ~~(3-17-22)~~

**0~~7~~8. Procedures for Medicare Cross-Over Claims**. (3-17-22)

**a.** If a ~~medical assistance~~ Medicaid participant is eligible for Medicare, the provider must first bill Medicare for the services ~~rendered to the participant~~ before billing the Department. ~~(3-17-22)~~( )

**b.** If a provider accepts a Medicare assignment, the Department will ~~pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment, and~~ forward ~~the~~ payment to the provider automatically based upon the Medicare Summary Notice (MSN) ~~information~~ that is received from the Medicare Part B Carrier ~~on a weekly basis~~. ~~(7-1-24)~~( )

**c.** If a provider does not accept a Medicare assignment, an MSN must be ~~attached to the appropriate claim form and~~ submitted with a claim to the Department. ~~The Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment.~~ ~~(3-17-22)~~( )

**d.** For all other services, an MSN must be ~~attached to the appropriate claim form and~~ submitted to the Department with a claim. ~~The Department will pay the provider for the services up to the Medicaid allowable amount minus the Medicare payment.~~ ~~(3-17-22)~~( )

**e.** The Department will pay the provider for the services up to the Medicaid allowable amount minus the Medicare payment. ( )

**0~~8~~9. ~~Services Reimbursable After the~~ Appeals Process**. Reimbursement for services originally

~~identified~~ denied by the Department ~~as not medically necessary~~ will be made if such decision is reversed by the appeals process ~~required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings~~."
~~(3-17-22)~~( )

**231. HANDLING OF OVERPAYMENTS AND UNDERPAYMENTS FOR SPECIFIED PROVIDERS.** ~~The provisions in Subsections 231.01 and 231.02~~This section of ~~this~~ rule apply~~ies~~ only to hospitals, FQHCs, RHCs and Home Health providers. ~~(3-17-22)~~( )

**01. Interest Charges ~~on Overpayments and Underpayments~~.** ~~The~~ Medicaid ~~program~~ will charge interest on overpayments, and pay interest on underpayments, as follows: ~~(3-17-22)~~( )

**a.** ~~Interest After Sixty Days of Notice.~~ If full repayment from the indebted party is not received within sixty (60) days after the provider has received the Department reimbursement notice, interest will accrue from the date of receipt ~~of the Department reimbursement notice~~, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. ~~(3-17-22)~~( )

**b.** ~~Waiver of Interest Charges.~~ When the Department determines an overpayment exists, it may waive interest charges if ~~it determines that~~ the administrative costs of collecti~~o~~n~~g them~~ exceed the charges. ~~(3-17-22)~~( )

**c.** ~~Rate of Interest.~~ The interest rate on overpayments and underpayments will be the statutory rate ~~as set forth in~~ under Section 28-22-104(1), Idaho Code, compounded monthly. ~~(3-17-22)~~( )

**d.** Retroactive Adjustment. The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes that occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only appli~~ed~~y to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. ~~(3-17-22)~~( )

**02. Recovery Methods ~~for Overpayments~~.** One (1) of the following ~~methods~~ will be used for recovery of overpayments: ~~(3-17-22)~~( )

**a.** ~~Lump Sum Voluntary Repayment.~~ Upon receipt of the notice of program reimbursement, the provider voluntarily refunds, in a lump sum, the entire overpayment to the Department. ~~(3-17-22)~~( )

**b.** ~~Periodic Voluntary Repayment.~~ The provider ~~must~~ may: ~~(3-17-22)~~( )

i. Request in writing that recovery of the overpayment be made over a period of twelve (12) months or less; and (3-17-22)

ii. ~~Adequately~~Submit documentation ~~the request by~~ demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time ~~than requested~~.
~~(3-17-22)~~( )

**c.** ~~Department Initiated Recovery. The~~If the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice, the Department will initiate recovery of the entire unpaid balance ~~of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice~~ in addition to accrued interest. ~~(3-17-22)~~( )

**d.** ~~Recovery from Medicare Payments.~~ The Department can request that Medicare payments be withheld ~~in accordance with~~ under 42 CFR Section 405.377. ~~(3-17-22)~~( )

**232. -- ~~234.~~ ~~(RESERVED)~~**

**~~235. PATIENT "ADVANCE DIRECTIVES."~~**

**01. Provider Participation**. Hospitals, nursing facilities, providers of home health care services (home health agencies, federally qualified health clinics, rural health clinics), hospice providers, and personal care RN supervisors must: (7-1-24)

**a.** Provide all adults receiving medical care written and oral information (the information provided must contain all material found in the Department's approved Advance Directive Registration Form) which defines their rights under state law to make decisions concerning their medical care. (7-1-24)

i. The provider must explain that the participant has the right to make decisions regarding their medical care which includes the right to accept or refuse treatment. If the participant has any questions regarding treatment, the facility or agency will notify the physician of those concerns. Their physician can answer any questions they may have about the treatment. (3-17-22)

ii. The provider will inform the participant of their rights to formulate advance directives, such as "Living Will" or "Durable Power of Attorney For Healthcare," or both. (7-1-24)

iii. The provider must comply with Subsection 235.02 of this rule. (3-17-22)

**b.** Provide all adults receiving medical care written information on the providers' policies concerning the implementation of the participant's rights regarding "Durable Power of Attorney for Healthcare," "Living Will," and the participant's right to accept or refuse medical and surgical treatment. (7-1-24)

**c.** Document in the participant's medical record whether the participant has executed an advance directive ("Living Will" or "Durable Power of Attorney for Healthcare," or both), or have a copy of the Department's approved Advance Directive Registration Form attached to the patient's medical record which has been completed acknowledging whether the patient/resident has executed an advance directive ("Living Will" or "Durable Power of Attorney for Healthcare," or both). (7-1-24)

**d.** The provider cannot condition the provision of care or otherwise discriminate against an individual based on whether that participant has executed an advance directive. (7-1-24)

**e.** If the provider cannot comply with the patient's "Living Will" or "Durable Power of Attorney for Healthcare," or both, as a matter of conscience, the provider will assist the participant in transferring to a facility or agency that can comply. (7-1-24)

**f.** Provide education to their staff and the community on issues concerning advance directives. (3-17-22)

**02. When Advance Directives Must Be Given**. Hospitals, nursing facilities, providers of home health care (home health agencies, federally qualified health centers, rural health clinics), hospice agencies, and personal care RN supervisors, must give information concerning "advance directives" to adult participants in the following situations: (7-1-24)

**a.** Hospitals must give the information at the time of the participant's admission as an inpatient unless Subsection 235.03 of this rule applies. (3-17-22)

**b.** Nursing facilities must give the information at the time of the participant's admission as a resident. (3-17-22)

**c.** Home health providers must give the information to the participant in advance of the participant coming under the care of the provider. (3-17-22)

**d.** The personal care RN supervisors will inform the participant when the RN completes the RN Assessment and Care Plan. The RN supervisor will inform the Qualified Intellectual Disabilities Professional (QIDP) and the personal care attendant of the participants decision regarding "advance directives." (7-1-24)

**e.** A hospice provider must give information at the time of initial receipt of hospice care by the

participant. (3-17-22)

**03. Information Concerning Advance Directives at the Time an Incapacitated Individual Is Admitted**. An individual may be admitted to a facility in a comatose or otherwise incapacitated state and be unable to receive information or articulate whether they have executed an advance directive. In this case, to the extent that a facility issues materials about policies and procedures to the families or to the surrogates or other concerned persons of the incapacitated patient under state law, it must also include the information concerning advance directives. This does not relieve the facility from its obligation to provide this information to the patient once they are no longer incapacitated. (7-1-24)

**04. Provider Agreement**. A "Memorandum of Understanding Regarding Advance Directives" is incorporated within the provider agreement. By signing the Medicaid provider agreement, the provider is not excused from its obligation regarding advance directives under Section 1902(a) of the Social Security Act, as amended by Section 4751 of OBRA 1990. (7-1-24)

**236. – 244. (RESERVED)**

**245. PROVIDERS OF SCHOOL-BASED SERVICES.**
Only school districts and charter schools can be reimbursed for the services described in Sections 850 through 856 of these rules. (3-17-22)

**246. – 249. (RESERVED)**

**250. SELECTIVE CONTRACTING.**
The Department may contract with a limited number of providers of certain Medicaid products and services, including: dental services, eyeglasses, transportation, and some medical supplies. (3-17-22)

**251. – 299. (RESERVED)**

## GENERAL REIMBURSEMENT PROVISIONS FOR INSTITUTIONAL PROVIDERS
## (Sections 300-389)

**300. COST REPORTING.**
The provider's Medicaid cost report must be filed using the Department designated reporting forms, unless the Department has approved an exception. The request to use alternate forms must be sent to the Department in writing, with samples attached, a minimum of ninety (90) days prior to the due date for the cost report. The request for approval of alternate forms cannot be used as a reason for late filing. (3-17-22)

**301. – 304. (RESERVED)**

**305. REIMBURSEMENT SYSTEM AUDITS.**

**01. Scope of Reimbursement System Audits**. The Department reserves the right to audit financial and other records of the provider, and, when warranted, the records of entities related to the provider. Audits consist of the following types of records: (3-17-22)

**a.** Cost verification of actual costs for providing goods and services; (3-17-22)

**b.** Evaluation of provider's compliance with the provider agreement, reporting form instructions, and any applicable law, rule, or regulation; (3-17-22)

**c.** Effectiveness of the service to achieve desired results or benefits; and (3-17-22)

**d.** Reimbursement rates or settlement calculated under this chapter. (3-17-22)

**02. Exception to Scope for Audits and Investigations**. Audits as described in these rules do not apply to the audit processes used in conducting investigations of fraud and abuse under IDAPA 16.05.07, "The

~~Investigation and Enforcement of Fraud, Abuse, and Misconduct."~~ ~~(3-17-22)~~

**30~~6~~0. -- 329. (RESERVED)**

**330. PROVIDER'S RESPONSIBILITY TO MAINTAIN RECORDS.**
~~The p~~Providers must maintain ~~financial and other~~ records in sufficient detail to allow the Department to audit them as described in ~~Section 305 of~~ these rules. ~~(3-17-22)~~( )

**01. Expenditure Documentation**. Documentation of expenditures must include the amount, date, purpose, payee, and the invoice or other verifiable evidence supporting the expenditure. (3-17-22)

**02. Cost Allocation Process**. Costs such as depreciation or amortization of assets and indirect expenses are allocated to activities or functions based on the original identity of the costs. Documentation to support basis for allocation must be available for verification. The assets referred to in this Section of rule are economic resources of the provider recognized and measured in conformity with generally accepted accounting principles. (3-17-22)

**03. Revenue Documentation**. Documentation of revenues must include the amount, date, purpose, and source of the revenue. (3-17-22)

**04. Availability of Records**. Records must be available for and subject to audit by the auditor, with or without prior notice, during any working day between the hours of 8:00 a.m. and 5:00 p.m. at the provider's principal place of business ~~in the state of Idaho~~. ~~(3-17-22)~~( )

**a.** ~~The p~~Providers ~~is~~ will be given the opportunity to provide documentation before the interim final audit report is issued. ~~(3-17-22)~~( )

**b.** ~~The p~~Providers ~~is~~ are not allowed to submit additional documentation in support of cost items after the issuance of the interim final audit report. ~~(3-17-22)~~( )

**05. Retention of Records**. Providers will retain ~~R~~records required ~~in Subsections 330.01 through 330.03 of~~ under this rule ~~must be retained by the provider~~ for a period of five (5) years from the date of the final payment under the provider agreement. Failure to retain records for the required period can void the Department's obligation to make payment for ~~the goods or~~ services. ~~(3-17-22)~~( )

**331. -- 339. (RESERVED)**

**340. DRAFT AUDIT REPORT.**
Following completion of the audit field work and before issuing the interim final audit report to the Department, the auditor will issue a draft audit report and forward a copy to the provider for review and comment. (3-17-22)

**01. Review Period**. ~~The p~~Providers will have a period of ~~sixty~~ forty-five (~~60~~45) days, beginning on the date of transmittal, to review and provide additional comments or evidence ~~pertaining to the draft audit report~~. The review period may be extended, to a maximum of an additional fifteen (15) days past the original due date, when ~~the~~ a provider: ~~(3-17-22)~~( )

**a.** Requests an extension prior to the expiration of the original review period; and (3-17-22)

**b.** Clearly demonstrates the need for additional time to properly respond. (3-17-22)

**02. Evaluation of Provider's Response**. The auditor will evaluate the provider's response ~~to the draft audit report~~ and will ~~delete,~~ modify~~, or reaffirm~~ the original findings, as deemed appropriate, in preparing the interim final audit report. ~~(3-17-22)~~( )

**341. FINAL AUDIT REPORT.**
The auditor will incorporate the provider's response and an analysis of the response into the interim final report ~~as appendices~~ and transmit it to the Department. The Department will issue a final audit report and a notice of program

reimbursement, if applicable, that sets forth settlement amounts due to the Department or the provider~~. The final audit report and notice of program reimbursement, if applicable,~~ and will take into account the findings made in the interim final audit report and the response of the provider to the draft audit report ~~(3-17-22)~~( )

**342. -- 359. (RESERVED)**

**360. RELATED PARTY TRANSACTIONS.**

**01. Principle**. ~~Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer.~~ ~~(3-17-22)~~

~~**02. Cost Allowability - Regulation**.~~ Allowability of costs applicable to services, facilities and supplies furnished by entities related to the provider is subject to the regulations ~~prescribing the treatment of specific items as outlined~~ in 42 CFR 413.17, et al., and the Providers Reimbursement Manual~~, PRM Chapter 10 and other applicable chapters of the PRM~~ (PMR). ~~(3-17-22)~~( )

~~**361. APPLICATION.**~~

0~~1~~2. **Determination of Common Ownership or Control ~~in the Provider Organization and Supply Organization~~**. In determining whether a provider organization is related to a supplying organization as defined under 42 CFR 413.17, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. ~~(3-17-22)~~( )

~~**a.** Common Ownership Rule. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case.~~ ~~(3-17-22)~~

~~**b.** Control Rule. The term "control" includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control that is decisive, not its form or the mode of its exercise.~~ ~~(3-17-22)~~

0~~2~~3. **Cost to Related Organizations**. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (3-17-22)

0~~3~~4. **Costs Not Related to Patient Care**. All home office costs not related to patient care are not allowable under the Program. (3-17-22)

0~~4~~5. **Interest Expense**. ~~Generally, i~~Interest expense on loans between related entities will not be reimbursable~~. See~~ under PMR Chapters 2, 10, and 12, PRM~~, for specifics~~. ~~(3-17-22)~~( )

~~**362. EXCEPTION TO THE RELATED ORGANIZATION PRINCIPLE.**~~
~~An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of the intermediary:~~ ~~(3-17-22)~~

~~**01. Supplying Organization**. That the supplying organization is a bona fide separate organization;~~ ~~(3-17-22)~~

~~**02. Nonexclusive Relationship**. That a substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market.~~ ~~(3-17-22)~~

0~~3~~6. ~~**Lease or Rentals of Hospital**~~**Exception**. An exception to the general principle applicable to related organizations applies if the provider demonstrates they meet the requirements in 42 CFR 413.17(d). The exception is not applicable to sales, lease or rentals of hospitals~~. These transactions would~~, which do not meet the

requirement that there be an open, competitive market for the facilities furnished ~~as described in Sections 1008 and 1012,~~ under the PRM. ~~(3-17-22)~~( )

**a.** ~~Rentals.~~ Rental expense for transactions between related entities will not be recognized. Costs of ownership will be allowed. ~~(3-17-22)~~( )

**b.** ~~Purchases.~~ When a facility is purchased from a related entity, the purchaser's depreciable basis must not exceed the seller's net book value ~~as described in Section 1005,~~ under the PRM. ~~(3-17-22)~~( )

**36~~3~~1. -- 389. (RESERVED)**

## EXCLUDED SERVICES
## (Section 390)

**390. SERVICES, TREATMENTS, AND PROCEDURES NOT COVERED BY ~~MEDICAL ASSISTANCE~~ MEDICAID.**
~~The following services, treatments, and procedures are not covered for payment by the Medical Assistance Program:~~ ~~(3-17-22)~~

**01. Service Categories Not Covered**. The following service categories are not covered for payment by ~~the Medical Assistance Program~~ Medicaid: ~~(3-17-22)~~( )

**a.** Acupuncture services; (3-17-22)

**b.** Naturopathic services; (3-17-22)

**c.** Bio-feedback therapy; (3-17-22)

**d.** Group hydrotherapy; ~~and~~ ~~(3-17-22)~~( )

**e.** Fertility-related services, including testing~~.~~; ~~(3-17-22)~~( )

**f.** Vocational services; ( )

**g.** Educational services; ( )

**h.** Recreational services; ( )

**i.** Duplicative services; ( )

**j.** Housing except when approved for a medical institution; and ( )

**k.** Food except the home-delivered meals benefit in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ( )

**02. Types of Treatments and Procedures Not Covered**. The costs of ~~physician~~ provider and hospital services for the following types of treatments and procedures are not covered for payment by ~~the Medical Assistance Program~~ Medicaid: ~~(3-17-22)~~( )

**a.** Elective medical and surgical treatment, except for family planning services, without Departmental approval. Procedures that are generally accepted by the medical community and are medically necessary may not require prior approval and may be eligible for payment; (3-17-22)

**b.** ~~Cosmetic surgery, excluding~~Services for convenience, comfort, or cosmetic reasons except when allowed elsewhere in rule. Hospice services, and reconstructive surgery that has prior approval by the Department are covered benefits; ~~(3-17-22)~~( )

~~c. Acupuncture;~~ ~~(3-17-22)~~

~~d. Bio-feedback therapy;~~ ~~(3-17-22)~~

~~e~~c. Laetrile therapy; (3-17-22)

~~f. Procedures and testing for the inducement of fertility. This includes artificial inseminations, consultations, counseling, office exams, tuboplasties, and vasovasostomies;~~ ~~(3-17-22)~~

~~g~~d. New procedures of unproven value and established procedures of questionable current usefulness as identified by the Public Health Service and that are excluded by the Medicare program or major commercial carriers; (3-17-22)

~~h~~e. Drugs supplied to patients for self-administration other than those allowed under ~~the conditions of Section 662 of~~ these rules; ~~(3-17-22)~~( )

~~i. Services provided by psychologists and social workers who are employees or contract agents of a physician, or a physician's group practice association except for psychological testing on the order of the physician;~~ ~~(3-17-22)~~

~~j~~f. The treatment of complications, consequences, or repair of any medical procedure where the original procedure was not covered by ~~the Medical Assistance Program~~ Medicaid, unless the resultant condition is life-threatening as determined by the Department; ~~(3-17-22)~~( )

~~k~~g. Medical transportation costs incurred for travel to medical facilities for the purpose of receiving a noncovered medical service; (3-17-22)

~~l. Eye exercise therapy; or~~ ~~(3-17-22)~~

~~m~~h. Surgical procedures on the cornea for myopia~~.~~; or ~~(3-17-22)~~( )

i. Services as detailed in Section 56-270, Idaho Code. ( )

**03. Experimental Treatments or Procedures**. ~~Treatments and procedures used solely to gain further evidence or knowledge or to test the usefulness of a drug or type of therapy are not covered for payment by the Medical Assistance Program. This includes both the~~ Experimental treatments ~~or~~ and procedures ~~itself~~, and the costs for all follow-up medical treatment directly associated with such a procedure are not covered. Treatments and procedures are deemed experimental ~~are not covered for payment by the Medical Assistance Program~~ under the following circumstances: ~~(3-17-22)~~( )

**a.** The treatment or procedure is in Phase I clinical trials ~~in which the study drug or treatment is given to a small group of people for the first time to evaluate its safety, determine a safe dosage range, and identify side effects~~; ~~(3-17-22)~~( )

**b.** There is inadequate available clinical ~~or pre-clinical~~ data to provide a reasonable expectation that the trial treatment or procedure will be at least as effective as non-investigational therapy; or ~~(3-17-22)~~( )

**c.** Expert opinion suggests that additional information is needed to assess the safety or efficacy of the proposed treatment or procedure. (3-17-22)

**391. INVESTIGATIONAL PROCEDURES OR TREATMENTS.**
The Department may cover investigational procedures or treatments on a case-by-case basis for life-threatening conditions when no other treatment options are available. For these cases, a focused case review is completed by the Department. The Department will determine coverage based on this review. ( )

**01. Focused Case Review**. A focused case review consists of assessment of: ( )

**a.** Health benefit to the participant; ( )

**b.** Risk to the participant; ( )

**c.** Standard treatment for the participant's condition, including alternative treatments; ( )

**d.** Specific inclusion or exclusion by Medicare national coverage guidelines; ( )

**e.** Phase of the clinical trial of the proposed procedure or treatment; ( )

**f.** Guidance regarding the proposed procedure or treatment by national organizations; ( )

**g.** Pertinent clinical data and peer-reviewed literature; and ( )

**f.** Ethics Committee review, if appropriate. ( )

**02. Additional Clinical Information**. If there is insufficient information from the focused case review to render a coverage decision, the Department may seek an independent professional opinion. ( )

**391~~1~~2. -- 39~~8~~9. (RESERVED)**

**~~399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.~~**

~~Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless specifically exempted.~~ ~~(3-17-22)~~

**~~01. Hospital Services~~**. ~~The range of hospital services covered is described in Sections 400 through 449 of these rules.~~ ~~(3-17-22)~~

**~~a.~~** ~~Inpatient and outpatient Hospital Services are described in Sections 400 through 416.~~ ~~(3-17-22)~~

**~~b.~~** ~~Reconstructive Surgery services are described in Sections 420 through 426.~~ ~~(3-17-22)~~

**~~c.~~** ~~Surgical procedures for weight loss are described in Sections 430 through 436.~~ ~~(3-17-22)~~

**~~d.~~** ~~Investigational procedures or treatments are described in Sections 440 through 446.~~ ~~(3-17-22)~~

**~~02. Ambulatory Surgical Centers~~**. ~~Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules.~~ ~~(3-17-22)~~

**~~03. Physician Services and Abortion Procedures~~**. ~~Physician services and abortion procedures are described in Sections 500 through 519 of these rules.~~ ~~(3-17-22)~~

**~~a.~~** ~~Physician services are described in Sections 500 through 506.~~ ~~(3-17-22)~~

**~~b.~~** ~~Abortion procedures are described in Sections 510 through 516.~~ ~~(3-17-22)~~

**~~04. Other Practitioner Services~~**. ~~Other practitioner services are described in Sections 520 through 559 of these rules.~~ ~~(3-17-22)~~

**~~a.~~** ~~Non-physician practitioner services are described in Sections 520 through 526.~~ ~~(3-17-22)~~

**~~b.~~** ~~Chiropractic services are described in Sections 530 through 536.~~ ~~(3-17-22)~~

**~~c.~~** ~~Podiatrist services are described in Sections 540 through 545.~~ ~~(3-17-22)~~

~~d. Licensed midwife (LM) services are described in Sections 546 through 552. (3-17-22)~~

~~e. Optometrist services are described in Sections 553 through 556. (3-17-22)~~

~~05. Primary Care Case Management. Primary care case management services are described in Sections 560 through 579 of these rules. (3-17-22)~~

~~a. Healthy Connections services are described in Sections 560 through 566. (3-17-22)~~

~~06. Prevention Services. The range of prevention services covered is described in Sections 570 through 649 of these rules. (3-17-22)~~

~~a. Children's habilitation intervention services are described in Sections 570 through 577. (3-17-22)~~

~~b. Child Wellness Services are described in Sections 580 through 584. (3-17-22)~~

~~c. Adult Physical Services are described in Sections 590 through 596. (3-17-22)~~

~~d. Screening mammography services are described in Sections 600 through 606. (3-17-22)~~

~~e. Diagnostic Screening Clinic services are described in Sections 610 through 614. (3-17-22)~~

~~f. Additional Assessment and Evaluation services are described in Section 615. (3-17-22)~~

~~g. Health Questionnaire Assessment is described in Section 618. (3-17-22)~~

~~h. Preventive Health Assistance benefits are described in Sections 620 through 626. (3-17-22)~~

~~i. Nutritional services are described in Sections 630 through 636. (3-17-22)~~

~~j. Diabetes Education and Training services are described in Sections 640 through 646. (3-17-22)~~

~~07. Laboratory and Radiology Services. Laboratory and radiology services are described in Sections 650 through 659 of these rules. (3-17-22)~~

~~08. Prescription Drugs. Prescription drug services are described in Sections 660 through 679 of these rules. (3-17-22)~~

~~09. Family Planning. Family planning services are described in Sections 680 through 689 of these rules. (3-17-22)~~

~~10. Outpatient Behavioral Health Services. Community-based outpatient services for behavioral health treatment are described in Sections 707 through 711 of these rules. (3-17-22)~~

~~11. Inpatient Psychiatric Hospital Services. Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-17-22)~~

~~12. Home Health Services. Home health services are described in Sections 720 through 729 of these rules. (3-17-22)~~

~~13. Therapy Services. Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (3-17-22)~~

~~14. Audiology Services. Audiology services are described in Sections 740 through 749 of these rules. (3-17-22)~~

~~15. Durable Medical Equipment and Supplies. The range of covered durable medical equipment and~~

supplies is described in Sections 750 through 779 of these rules. (3-17-22)

a. Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-17-22)

b. Prosthetic and orthotic services are described in Sections 770 through 776. (3-17-22)

16. **Vision Services**. Vision services are described in Sections 780 through 789 of these rules. (3-17-22)

17. **Dental Services**. Medicaid dental services are covered under a selective contract as described in Section 800 through 819 of these rules. (3-17-22)

18. **Essential Providers**. The range of covered essential services is described in Sections 820 through 859 of these rules. (3-17-22)

a. Rural health clinic services are described in Sections 820 through 826. (3-17-22)

b. Federally Qualified Health Center services are described in Sections 830 through 836. (3-17-22)

c. Indian Health Services Clinic services are described in Sections 840 through 846. (3-17-22)

d. School-Based services are described in Sections 850 through 857. (3-17-22)

19. **Transportation**. The range of covered transportation services is described in Sections 860 through 879 of these rules. (3-17-22)

a. Emergency transportation services are described in Sections 860 through 866. (3-17-22)

b. Non-emergency medical transportation services are described in Sections 870 through 876. (3-17-22)

20. **EPSDT Services**. EPSDT services are described in Sections 880 through 889 of these rules. (3-17-22)

21. **Specific Pregnancy Related Services**. Specific pregnancy related services are described in Sections 890 through 899 of these rules. (3-17-22)

## COVERED SERVICES
## (Sections 400-899)

## SUB AREA: HOSPITAL SERVICES
## (Sections 400-449)

### 400. HOSPITAL SERVICES – DEFINITIONS.

**01. Administratively Necessary Day (AND)**. An Administratively Necessary Day (AND) is intended to allow a hospital time for an orderly transfer or discharge of participant inpatients who are no longer in need of a continued acute level of care. ANDs may be authorized for inpatients who are awaiting placement for nursing facility level of care, or in-home services that are not available, or when catastrophic events prevent the scheduled discharge of an inpatient. (3-17-22)

**02. Allowable Costs**. The current year's Medicaid apportionment of a hospital's allowable costs determined at final or interim settlement if cost settlements are applicable, or determined using the version of the cost report used for prospective payment system (PPS) rate setting, consist of those costs permitted by the principles of reimbursement contained in the Provider Reimbursement Manual (PRM) and do not include costs already having payment limited by Medicaid rate file or any other Medicaid charge limitation. (3-17-22)

~~03. Apportioned Costs. Apportioned costs consist of the share of a hospital's total allowable costs attributed to Medicaid program participants and other patients so that the share borne by the program is based upon actual services received by program participants, as set forth in the applicable Title XVIII principles of cost reimbursement as specified in the PRM and in compliance with Medicaid reimbursement rules.~~ ~~(3-17-22)~~

043. **Capital Costs**. For the purposes of hospital reimbursement, capital costs are those allowable costs considered in the settlement that represent the cost to each hospital for its reasonable property related and financing expense, and property taxes. (3-17-22)

~~05. Case Mix Index. The Case Mix Index for a hospital is the average weight of values assigned to a range of diagnostic related groups and applied to Medicaid discharges. The index will measure the relative resources required to treat Medicaid inpatients. The Case Mix Index of the current year will be divided by the index of the principal year to assess the percent change between the years.~~ ~~(3-17-22)~~

064. **Charity Care**. Charity care is care provided to individuals who have no source of payment, third-party or personal resources. (3-17-22)

~~07. Children's Hospital. A Medicare-certified hospital as set forth in 42 CFR Section 412.23(d).~~ ~~(3-17-22)~~

085. **Critical Access Hospitals (CAH)**. A rural hospital with twenty-five (25) or less beds as set forth in 42 CFR Section 485.620. (3-17-22)

096. **Current Year**. Any hospital cost reporting period for which reasonable cost is being determined will be termed the current year. (3-17-22)

~~1~~07. **Inpatient Services Customary Hospital Charges**. Customary inpatient hospital charges reflect the regular rates for inpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Department. ~~Effective for service dates beginning July 1, 2021 reimbursement will be as follows:~~ ~~(3-17-22)~~( )

**a.** All in-state providers not described in b-d below will be paid a final prospective payment rate using the All Patient Refined Diagnosis Related Group (APR-DRG) classification system as described in Section 401 of these rules. (3-17-22)

**b.** Idaho state-owned hospitals and the Department of Veteran's Affairs Medical Center will be reimbursed at one hundred percent (100%) of allowable cost using a retrospective cost settlement upon receipt of a final Medicare cost report. (3-17-22)

**c.** In-state and those out-of-state within thirty five (35) miles of the Idaho border, ~~Critical Access Hospitals (~~CAHs~~)~~ will be reimbursed at one hundred one percent (101%) of allowable cost using a retrospective cost settlement upon receipt of a final Medicare cost report. ~~(3-17-22)~~( )

**d.** All out-of-state providers not described in a through c above will be paid a final prospective payment rate with no retrospective cost settlement using the All Patient Refined Diagnosis Related Group (APR-DRG) classification system as described in Section 401 of these rules. The out-of-state APR-DRG rates were developed to provide a combined cost coverage of eighty-seven percent (87%) when all out-of-state providers are averaged together in keeping with Section 56-265(6)(b), Idaho Code. (3-17-22)

~~1~~108. **Outpatient Services Customary Hospital Charges**. Customary outpatient hospital charges reflect the regular rates for outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Department. ~~Effective for service dates beginning July 1, 2021, reimbursement will be as follows:~~ ~~(3-17-22)~~( )

**a.** Idaho state-owned hospitals and the Department of Veteran's Affairs Medical Center will be reimbursed at one hundred percent (100%) of allowable cost. (3-17-22)

**b.** In-state and those out-of-state within thirty five (35) miles of the Idaho border, CAHs will be reimbursed at one hundred one percent (101%) of allowable cost. ~~(3-17-22)~~( )

**c.** All hospitals that are not described in a through b above will be subject to the outpatient reimbursement parameters outlined in the Medicaid Provider Agreement and Section 56-265, Idaho Code. (3-17-22)

~~12~~09. **Disproportionate Share Hospital (DSH) Allotment Amount**. The DSH allotment amount determined by CMS that is eligible for federal matching funds in any federal fiscal period for disproportionate share payments. (3-17-22)

~~13~~10. **Disproportionate Share Hospital (DSH) Survey**. The DSH survey is an annual data request from the Department to the hospitals to obtain the information necessary to compute DSH in accordance with Subsection 405.06 of these rules. (3-17-22)

~~14~~11. **Disproportionate Share Threshold**. The disproportionate share threshold is: (3-17-22)

**a.** The arithmetic mean plus one (1) standard deviation of the Medicaid Utilization Rates of all Idaho Hospitals; or (3-17-22)

**b.** A Low-Income Revenue Rate exceeding twenty-five percent (25%). (3-17-22)

~~15. Excluded Units. Excluded units are distinct units in hospitals that are certified by Medicare according to 42 CFR Sections 412.25, 412.27 and 412.29 for exclusion from the Medicare prospective payment system. (3-17-22)~~

~~16~~12. **Hospital Inflation Index**. An index calculated through Department studies and used to adjust inpatient operating cost limits and interim rates for the current year. (3-17-22)

~~17~~13. **Low-Income Revenue Rate**. The Low Income Revenue Rate is the sum of the following fractions, expressed as a percentage, calculated as follows: (3-17-22)

**a.** Total Medicaid inpatient and outpatient revenues paid to the hospital, plus the amount of the cash subsidies received directly from state and local governments in a cost reporting period, divided by the total amount of revenues and cash subsidies of the hospital ~~for inpatient services~~ in the same cost reporting period; plus ~~(3-17-22)~~( )

**b.** The total amount of the hospital's charges for inpatient hospital services attributable to charity care in the same cost reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributed to charity care must not include contractual allowances and discounts and reduction in charges given to Medicare, Medicaid, other third-party payors, or cash for patient services received directly from state and local governments' county assistance programs. (3-17-22)

~~18~~14. **Medicaid Inpatient Day**. For purposes of DSH payments, an inpatient day is defined as a Medicaid inpatient day in a hospital for which there is also no Medicare inpatient day counted. (3-17-22)

~~19~~15. **Medicaid Utilization Rate (MUR)**. The MUR for each hospital will be computed using the Department's record of paid inpatient days for the fiscal year divided by the total inpatient days for the same fiscal year as reported in the DSH survey. In this paragraph, the term "inpatient days" includes administratively necessary days, newborn days, days in specialized wards, days provided at an inappropriate level of care, and Medicaid inpatient days from other states. ~~In this paragraph, "Medicaid inpatient days" includes paid days not counted in prior DSH threshold computations. (3-17-22)~~( )

~~20~~16. **Obstetricians**. For purposes of an adjustment for hospitals serving a disproportionate share of low income patients, and in the case of a hospital located in a rural area, as defined by the federal Executive Office of

Management and Budget, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. (3-17-22)

~~21~~7. **On-Site**. A service location over which the hospital exercises financial and administrative control. "Financial and administrative control" means a location whose relation to budgeting, cost reporting, staffing, policy-making, record keeping, business licensure, goodwill and decision-making are so interrelated to those of the hospital that the hospital has ultimate financial and administrative control over the service location. The service location must be in close proximity to the hospital where it is based, and both facilities serve the same patient population (e.g., from the same area, or catchment, within Medicare's defined Metropolitan Statistical Area (MSA) for urban hospitals or thirty-five (35) miles from a rural hospital). (3-17-22)

~~22. Operating Costs. For the purposes of hospital reimbursement, operating costs are the allowable costs included in the cost centers established in the finalized Medicare cost report to accumulate costs applicable to providing routine and ancillary services to patients for the purposes of cost assignment and allocation in the step-down process.~~ (3-17-22)

~~23. Other Allowable Costs. Other allowable costs are those reasonable costs recognized under the Medicaid reasonable cost principles for services not subject to Medicaid limitations of coverage or reimbursement limits. Costs that are not reimbursed as operating costs, but recognized by Medicare principles as allowable costs will be included in the total reasonable costs. Other allowable costs include, but are not necessarily limited to, physician's component which was combined billed, capital costs, ambulance costs, excess costs, carry-forwards and medical education costs.~~ (3-17-22)

~~24~~18. **Reasonable Costs**. Reasonable costs include all necessary and ordinary costs incurred in rendering the services related to patient care that a prudent and cost-conscious hospital would pay for a given item or service. (3-17-22)

~~25~~19. **Uninsured Patient Costs**. For the purposes of determining the additional costs beyond uncompensated Medicaid costs that may be reimbursed as a DSH payment without exceeding the state Allotment Amount, ~~only~~ both inpatient and outpatient costs of uninsured patients will be considered. ~~(3-17-22)~~( )

~~26~~20. **Upper Payment Limit**. The Upper Payment Limit for hospital services is defined in the Code of Federal Regulations. (3-17-22)

~~27. Prior Service Period Claims Subject to Future Cost Settlement. For providers subject to cost settlement, claims from prior service periods that were not captured in a prior cost settlements will be cost settled in the current year using cost-to-charge ratios and routine cost per diems from the Medicare cost report currently being settled.~~ (3-17-22)

**401. HOSPITAL REIMBURSEMENT – PROSPECTIVE PAYMENT SYSTEMS.**
Providers identified in Section 400.10.a. and 400.10.d will be reimbursed for inpatient services using an All Patient Refined Diagnosis Related Group (APR-DRG) as outlined in the Medicaid Provider Agreement ~~otherwise beginning with service periods on or after July 1, 2021~~. ~~(3-17-22)~~( )

**402. INPATIENT HOSPITAL SERVICES: COVERAGE AND LIMITATIONS.**
The policy, rules, and regulations to be followed ~~will be those cited in~~ are 42 CFR 456.50 through 42 CFR 456.145. All hospital services must conform to federal and state laws and regulations. ~~Services must be medically necessary as defined in Section 011 of these rules.~~ ~~(3-17-22)~~( )

**01. Initial Length of Stay**. Prior authorization requirement for an initial length of stay will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook for hospitals not reimbursed under DRG methodologies. (3-17-22)

**02. Extended Stay**. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook for hospitals not reimbursed under DRG methodologies. An authorization is necessary when the appropriate care of the participant indicates the need for hospital days in excess of the initial length of stay, or previously approved extended stay. (3-17-22)

**03. Exceptions and Limitations**. The following exceptions and limitations apply to in-patient hospital services for hospitals not reimbursed under DRG methodologies: (3-17-22)

**a.** Payment for accommodations is limited to the hospital's all-inclusive rate. The all-inclusive rate is a flat fee charge incurred on a daily basis that covers both room and board. (3-17-22)

**b.** The Department will not authorize reimbursement above the all-inclusive rate unless the attending ~~physician~~ provider orders a room that is not an all-inclusive rate room for the patient because of medical necessity. ~~(3-17-22)~~( )

**04. Diagnosis Related Group Review and Audits**. All services performed under DRG are subject to QIO reviews, retrospective reviews, and audits. The Department reserves the right to execute reviews as described in the Idaho Medicaid Provider Handbook as amended. (3-17-22)

**403. INPATIENT HOSPITAL SERVICES: PROCEDURAL REQUIREMENTS.**

~~**01. Prior Authorization**. Some services may require a prior authorization from the Department or its designee. Documentation for the request must include the most recent plan of care and adequate documentation to demonstrate continued medical necessity. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. (3-17-22)~~

**0~~2~~1. Certification of ~~Need~~ Medical Necessity**. At the time of admission, the physician must certify that inpatient services are necessary. Recertification must occur at least every sixty (60) days inpatient hospital services are required, but may be required more frequently as determined by the Department. ~~(3-17-22)~~( )

**0~~3~~2. Individual Plan of Care**. The individual plan of care is a written plan developed for the participant upon admission to a hospital and updated at least every sixty (60) days, but may be required more frequently as determined by the Department. The plan must include: (3-17-22)

**a.** Diagnoses, symptoms, complaints, and complications indicating the need for admission; (3-17-22)

**b.** A description of the functional level of the individual; (3-17-22)

**c.** Any orders for medications, treatments, rehabilitative services, activities, social services, or diet; and (3-17-22)

**d.** Plans for continuing care or discharge, as appropriate. (3-17-22)

**0~~4~~3. Request for Extended Stay**. To qualify for reimbursement, authorization must be obtained from the Department, or its designee. The request should be made before the initial length of stay or previously authorized extended stay ends, and submitted as designated by the Department~~, or its designee~~. Documentation for the request should include the most recent plan of care. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. ~~(3-17-22)~~( )

**404. INPATIENT HOSPITAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**
In addition to the provider enrollment agreement, each claim submitted by a hospital constitutes an agreement by which the hospital agrees to accept and abide by the Department's rules. Only a Medicare certified hospital, licensed by the state in which it operates, may enroll in the Idaho Medicaid program. Hospitals not participating as a Medicaid swing-bed provider, which are licensed for long-term care or as a specialty hospital that provides a nursing home level of care, will be reimbursed as a nursing facility. Hospitals not eligible for enrollment which render emergency care will be paid rates established in these rules. (3-17-22)

**405. HOSPITAL SERVICES – PROVIDER REIMBURSEMENT.**
~~Under the Medicaid provisions of the Social Security Act, in reimbursing hospitals, the Department will pay the lesser of customary hospital charges or Medicaid reimbursement for services established in accordance with the procedures detailed under this rule.~~ The upper limits observed by the Department in reimbursing each individual

hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. ~~(3-17-22)~~( )

**01. Payment Procedures**. The following procedures are applicable to in-patient hospitals: (3-17-22)

**a.** The participant's admission and length of stay may be subject to prior authorization, concurrent review, continued stay review, and retrospective review by a Quality Improvement Organization (QIO) designated by the Department. QIO review will be governed by provisions of the QIO Idaho Medicaid Provider Manual as amended. If a review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. Failure to obtain a timely QIO review as required by Section 402 of these rules, and as outlined in the QIO Idaho Medicaid Provider Manual as amended, will result in the QIO conducting a late review. ~~After a QIO review has determined that the hospital stay was medically necessary, Medicaid will assess a late review penalty to the hospital as outlined in this rule.~~ ~~(3-17-22)~~( )

i. All admissions for hospitals not reimbursed under DRG methodologies are subject to QIO review to determine if continued stay in inpatient status is medically necessary. A QIO continued stay review is required when the participant's length of stay exceeds the number of days certified by the QIO. If no initial length of stay certification was issued by the QIO, a QIO continued stay review is required when the admission exceeds a number of days as specified by the Department. (3-17-22)

ii. Reimbursement for services originally identified as not medically necessary by the QIO will be made if such decision is reversed by the appeals process ~~required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ ~~(3-17-22)~~( )

~~iii. Absent the Medicaid participant's informed decision to incur services deemed unnecessary by the QIO, or not authorized by the QIO due to the negligence of the provider, no payment for denied services may be obtained from the participant.~~ ~~(3-17-22)~~

**b.** In reimbursing licensed hospitals, the Department will pay the lesser of customary hospital charges or Medicaid reimbursement for in-patient hospital care as set forth in this rule, unless an exception applies as stated in Section 402 of these rules. The upper limits for payment must not exceed the payment that would be determined as reasonable cost using the Title XVIII standards and principles. (3-17-22)

~~**02. Hospital Penalty Schedule**. The following applies for hospitals not reimbursed under DRG methodologies:~~ ~~(3-17-22)~~

~~**a.** A request for a preadmission or continued stay QIO review, or for both, that is one (1) day late will result in a penalty of two hundred and sixty dollars ($260), from the total Medicaid paid amount of the inpatient hospital stay.~~ ~~(3-17-22)~~

~~**b.** A request for a preadmission or continued stay QIO review, or for both, that is two (2) days late will result in a penalty of five hundred and twenty dollars ($520), from the total Medicaid paid amount of the inpatient hospital stay.~~ ~~(3-17-22)~~

~~**c.** A request for a preadmission or continued stay QIO review, or for both, that is three (3) days late will result in a penalty of seven hundred and eighty dollars ($780), from the total Medicaid paid amount of the inpatient hospital stay.~~ ~~(3-17-22)~~

~~**d.** A request for a preadmission or continued stay QIO review, or for both, that is four (4) days late will result in a penalty of one thousand and forty dollars ($1,040), from the total Medicaid paid amount of the inpatient hospital stay.~~ ~~(3-17-22)~~

~~**e.** A request for a preadmission or continued stay QIO review, or for both, that is five (5) days late or greater will result in a penalty of one thousand three hundred dollars ($1,300), from the total Medicaid paid amount of the inpatient hospital stay.~~ ~~(3-17-22)~~

**03. AND Reimbursement Rate**. Reimbursement for an AND will be made at the weighted average

Medicaid payment rate for all Idaho nursing facilities for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. ~~ICF/IID rates are excluded from this calculation.~~ ~~(3-17-22)~~( )

**a.** The AND reimbursement rate will be calculated by the Department ~~by March 15~~ of each calendar year and made effective retroactively for dates of service on or after January 1 of the respective calendar year. ~~(3-17-22)~~( )

**b.** Hospitals with an attached nursing facility will be reimbursed the lesser of their Medicaid per diem routine rate or the established average rate for an AND; and (3-17-22)

**c.** The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (3-17-22)

**04. Reimbursement for Services**. Routine services ~~as addressed~~ in Subsection 405.05 of this rule include all medical care, supplies, and services that are included in the calculation of nursing facility property and non-property costs as described in these rules. Reimbursement of ancillary services will be determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. ~~(3-17-22)~~( )

**05. Hospital Swing-Bed Reimbursement**. The Department will pay for nursing facility care in certain rural hospitals. ~~Following approval by the Department, such hospitals may provide service to~~ for participants in licensed hospital "swing-beds" who require nursing facility level of care. ~~(3-17-22)~~( )

~~**a.** Facility Requirements. The Department will approve hospitals for nursing facility care provided to eligible participants under the following conditions: (3-17-22)~~

~~i. The Department's Licensure and Certification Section finds the hospital in conformance with the requirements of 42 CFR 482.58 "Special Requirements" for hospital providers of long-term care services ("swing-beds"), or 42 CFR 485.645 Special requirements for CAH providers of long-term services ("swing beds") as applicable; and (3-17-22)~~

~~ii. The hospital is approved by the Medicare program for the provision of "swing-bed" services; and (3-17-22)~~

~~iii. The facility does not have a twenty-four (24) hour nursing waiver granted under 42 CFR 488.54(c); and (3-17-22)~~

~~iv. The hospital must not have had a swing-bed approval terminated within the two (2) years previous to application for swing-bed participation; and (3-17-22)~~

~~v. The hospital must be licensed for less than one hundred (100) beds as defined by 42 CFR 482.58(a)(1) for swing-bed purposes; and (3-17-22)~~

~~vi. Nursing facility services in swing beds must be rendered in beds used interchangeably to furnish hospital or nursing facility-type services. (3-17-22)~~

~~**b**~~**a.** Participant Requirements. The Department will reimburse hospitals for participants under the following conditions: (3-17-22)

i. The participant is determined to be entitled to such services in accordance with IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled"; and (3-17-22)

ii. The participant is authorized for payment in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 222.02. (3-17-22)

~~**c**~~**b.** Reimbursement for "Swing-Bed" Patient Days. The Department will reimburse swing-bed hospitals on a per diem basis utilizing a rate established as follows: (3-17-22)

i. Payment rates for routine nursing facility services will be at the weighted average Medicaid rate per patient day paid to hospital-based nursing facility~~/ICF facilities~~ for routine services furnished during the previous calendar year.~~ ICF/IID facilities' rates are excluded from the calculations.~~ ~~(3-17-22)~~( )

ii. The rate will be calculated by the Department~~ by March 15~~ of each calendar year. The rate will be based on the previous calendar year and effective retroactively for dates of service on or after January 1 of the respective year. ~~(3-17-22)~~( )

iii. The weighted average rate for nursing facility swing-bed days will be calculated by dividing total payments for routine services, including patient contribution amounts but excluding miscellaneous financial transactions relating to prior years, by total patient days for each respective level of care occurring in the previous calendar year. (3-17-22)

iv. Routine services include all medical care, supplies, and services that are included in the calculation of nursing facility property and nonproperty costs as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 225.01. (3-17-22)

~~v. The Department will pay the lesser of the established rate, the facility's charge, or the facility's charge to private pay patients for "swing-bed" services. (3-17-22)~~

v~~i~~. Reimbursement of ancillary services not included in the nursing facility rates furnished for extended care services will be billed and determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-17-22)

~~vii. The number of swing-bed days that may be reimbursed to a provider in a twelve (12) month period will be limited to the greater of one thousand ninety-five (1,095) days which may be prorated over a shorter fiscal period or, fifteen percent (15%) of the product of the average number of available licensed beds in the hospital in the period and the number of days in the fiscal period. The Department may authorize additional critical access hospital swing-bed days for participants residing in a community without a nursing facility within thirty-five (35) miles contingent on a review of medical necessity, cost-effectiveness, residency, and quality of care. (3-17-22)~~

~~**d.** Computation of "Swing-Bed" Patient Contribution. The computation of the patient's contribution of swing-bed payment will be in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 224. (3-17-22)~~

**06. Adjustment for Disproportionate Share Hospitals (DSH)**. All Idaho hospitals serving a disproportionate share of low-income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. The Department will send each hospital a DSH survey on or before January 31 of each calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. (3-17-22)

**a.** Mandatory Eligibility. Mandatory Eligibility for DSH status will be provided for hospitals that: (3-17-22)

i. Meet or exceed the disproportionate share threshold as defined in Subsection 400.13 of these rules. (3-17-22)

ii. Have at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services. (3-17-22)

(1) Subsection 405.06.b.ii. of this rule does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or (3-17-22)

(2) Does not offer nonemergency inpatient obstetric services as of December 21, 1987. (3-17-22)

iii. The MUR will not be less than one percent (1%). (3-17-22)

iv. If an Idaho hospital exceeds both disproportionate share thresholds, as described in Subsection 400.13 of these rules, and the criteria of Subsections 405.06.b.ii. and 405.06.b.iii. of this rule are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsections 405.06.b.vi. through 405.06.b.x. of this rule. (3-17-22)

v. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals will receive a DSH payment equal to two percent (2%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-17-22)

vi. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-17-22)

vii. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates exceeding two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-17-22)

viii. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding twenty-five percent (25%) will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-17-22)

ix. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to, or exceeding, thirty percent (30%) will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-17-22)

**b.** Deemed ~~Disproportionate Share Hospital (~~DSH~~)~~. All hospitals in Idaho that have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days, and meet the requirements unrelated to patient day utilization specified in Subsection 405.06.b. of this rule, will be designated a Deemed Disproportionate Share Hospital. The disproportionate share payment to a Deemed DSH hospital will be the greater of:
~~(3-17-22)~~( )

i. Five dollars ($5) per Idaho Medicaid inpatient day included in the hospital's MUR computation; or (3-17-22)

ii. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH allotment amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (3-17-22)

**c.** Insufficient DSH Allotment Amounts. When the DSH allotment amount is insufficient to make the aggregate amount of DSH payments to each DSH hospital, payments to each hospital will be reduced by the percentage by which the DSH allotment amount was exceeded. (3-17-22)

**d.** DSH Payments Will Not Exceed Costs. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the State Plan or were uninsured for health care services provided during the year. (3-17-22)

i. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state will not be considered a source of third party payment. (3-17-22)

ii. Claims of uninsured costs that increase the maximum amount that a hospital may receive as a DSH payment must be documented. (3-17-22)

**e.** DSH Will be Calculated on an Annual Basis. A change in a provider's allowable costs as a result of

a reopening or appeal will not result in the recomputation of the provider's annual DSH payment. (3-17-22)

**f.** To the extent that audit findings demonstrate that DSH payments exceed the documented hospital specific cost limits, the Department will collect overpayments and redistribute DSH payments. (3-17-22)

i. If at any time during an audit the Department discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to the Department's final audit report regarding that provider, will be referred to the Medicaid Fraud Unit of the Idaho Attorney General's Office. (3-17-22)

ii. The Department will submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with 42 CFR Part 455, Subpart D, "Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments." (3-17-22)

iii. Beginning with FFY 2011, if based on the audit of the DSH allotment distribution, the Department determines that there was an overpayment to a provider, the Department will immediately: (3-17-22)

(1) Recover the overpayment from the provider; and (3-17-22)

(2) Redistribute the amount in overpayment to providers that had not exceeded the hospital-specific upper payment limit during the period in which the DSH payments were determined. The payments will be subject to hospital-specific upper payment limits. (3-17-22)

iv. Disproportionate share payments must not exceed the DSH state allotment, except as otherwise required by the Social Security Act. In no event is the Department obligated to use State Medicaid funds to pay more than the State Medicaid percentage of DSH payments due a provider. (3-17-22)

**07. Out-of-State Hospitals**. ~~(3-17-22)~~

~~**a.**~~ Cost Settlements for Certain Out-of-State Hospitals. For service periods through June 30, 2021, hospitals not located in the state of Idaho will have a cost settlement computed with the state of Idaho if the following conditions are met: ~~(3-17-22)~~( )

~~i~~**a.** Total inpatient and outpatient covered charges are more than fifty thousand dollars ($50,000) in the fiscal year; or (3-17-22)

~~ii~~**b.** When less than fifty thousand dollars ($50,000) of covered charges are billed to the state by the provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (3-17-22)

~~**b.** Payment for Hospitals Without Cost Settlement. Those out-of-state hospitals not cost settling with the state will have annually adjusted rates of payment no greater than seventy-five percent (75%) for inpatient covered charges and no greater than eighty percent (80%) of outpatient covered charges or, the Department's established fee schedule for certain outpatient services. These rates represent average inpatient and outpatient reimbursement rates paid to Idaho hospitals.~~ ~~(3-17-22)~~

**08. Audit Function**. Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Title XVIII and Medicaid purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (3-17-22)

**09. Adequacy of Cost Information**. Cost information as developed by the provider must be current, accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to participants. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another. (3-17-22)

**10. Availability of Records of Hospital Providers**. A participating hospital provider of services must make available to the Department in the state in which the facility is licensed, the provider's fiscal and other necessary records for the purpose of determining its ongoing record keeping capability and to ascertain information pertinent to the determination of the proper amount of program payments due the provider. (3-17-22)

**11. Interim Cost Settlements**. The Department may initiate, or a hospital may request an interim cost settlement based on the Medicare cost report as submitted, for hospitals subject to cost settlement. ~~(3-17-22)~~( )

**a.** Cost Report Data. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (3-17-22)

**b.** Limit or Recovery of Payment. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (3-17-22)

~~**12. Notice of Program Reimbursement**. Following receipt of the finalized Medicare cost report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider that sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (3-17-22)~~

~~**a.** Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the cost report. (3-17-22)~~

~~**b.** Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the cost report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (3-17-22)~~

**1~~3~~2. Non Appealable Items**. The formula for the determination of the hospital inflation index, the principles of reimbursement that define allowable cost, non-Medicaid program issues, interim rates that are in compliance with state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits are not acceptable as appealable items. (3-17-22)

**1~~4~~3. Interim Reimbursement Rates for Providers Subject to Cost Settlement**. The interim reimbursement rates must be reasonable and adequate to meet the necessary costs that are incurred by economically and efficiently operated providers that provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. (3-17-22)

**a.** Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. (3-17-22)

**b.** Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (3-17-22)

**c.** Basis for Adjustments. The Department may make an adjustment based on the Medicare cost report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or

greater than one hundred thousand dollars ($100,000), the interim rate will be adjusted to account for half (½) of the difference. (3-17-22)

~~**d.** Unadjusted Rate. The Medicaid interim reimbursement rate on file is synonymous with the term unadjusted rate used by other payors. (3-17-22)~~

~~**15. Audits**. All financial reports are subject to audit by Departmental representatives in accordance with Section 305 of these rules. (3-17-22)~~

**406. INPATIENT HOSPITAL SERVICES: QUALITY ASSURANCE.**
The designated QIO must prepare, distribute, and maintain a provider manual that is periodically updated. The manual must include the following: (3-17-22)

**01. QIO Information**. The QIO's policies, criteria, standards, operating procedures, and forms for performing: preadmission monitoring, assessment reviews, continued stay requests, and requests for retroactive medical reviews. (3-17-22)

**02. Department Provisions**. Department-selected diagnoses and elective procedures in which a hospital will request preauthorization of an admission, transfer, or continuing stay. (3-17-22)

**03. Approval Timeframe**. A provision that the QIO will inform the hospital of a certification within five (5) days, or other time frame as determined by the Department, of an approved admission, transfer, or continuing stay. (3-17-22)

**04. Method of Notice**. The method of notice to hospitals of QIO denials for specific admissions, transfers, continuing stays, or services rendered in post-payment reviews. (3-17-22)

**05. Procedural Information**. The procedures that providers or participants will use to obtain reconsideration of a denial by the QIO prior to appeal to the Department. Such requests for reconsideration by the QIO must be made in writing to the QIO within one hundred eighty (180) days of the issuance of the "Notice of Non-Certification of Hospital Days." (3-17-22)

**407. -- 409. (RESERVED)**

**410. OUTPATIENT HOSPITAL SERVICES: DEFINITIONS.**
Outpatient hospital services include preventive, diagnostic, therapeutic, rehabilitative or palliative items, and services furnished by or under the direction of a ~~physician or dentist~~ provider not in need of inpatient hospital care, unless excluded by any other provisions of this chapter. ~~(3-17-22)~~( )

**411. (RESERVED)**

**412. OUTPATIENT HOSPITAL SERVICES: COVERAGE AND LIMITATIONS.**

**01. Services Are Provided On-Site**. ~~Outpatient hospital services must be provided on-site. (3-17-22)~~( )

~~**02. Exceptions and Limitations**. (3-17-22)~~

~~**a.** Payment for emergency room service is limited to six (6) visits per calendar year. (3-17-22)~~

~~**b.** Emergency room services that are followed immediately by admission to inpatient status will be excluded from the six (6) visit limit. (3-17-22)~~

**0~~3~~2. Co-Payments**. (3-17-22)

**a.** When an emergency room physician ~~conducts a medical screening and~~ determines that an emergency condition does not exist, the hospital can require the participant to pay a co-payment as described in

IDAPA 16.03.18, "Medicaid Cost-Sharing." ~~(3-17-22)~~( )

**b.** ~~A hospital may refuse to provide s~~Services ~~to a participant when a medical screening has~~ may be refused when determined ~~that~~ an emergency condition does not exist and the participant does not make the ~~required~~ co-payment at the time of service. ~~Under these circumstances, t~~The hospital ~~must~~ will provide notification to the participant ~~as specified in~~ per Section 1916A(e) of the Social Security Act. ~~(3-17-22)~~( )

**413. OUTPATIENT HOSPITAL SERVICES: PROCEDURAL REQUIREMENTS.**

**01. Review Prior to Delivery ~~of Outpatient Services~~**. Failure to obtain a timely review from the Department ~~or its quality improvement organization (QIO)~~ prior to delivery of ~~outpatient services,~~ listed ~~on the select~~ procedure and diagnosis ~~list~~ codes in the QIO Idaho Medicaid Providers Manual and the Hospital Provider Handbook, as amended, ~~for participants who are eligible at the time of service,~~ will result in a retrospective review. ~~The Department will assess a late review penalty, as outlined in Subsection 405.02 of these rules, when a review is conducted due to an untimely request.~~ ~~(3-17-22)~~( )

**02. Follow-Up for Emergency Room Patients**. Hospitals must establish procedures to refer Medicaid participants who are not enrolled in Healthy Connections to an Idaho Medicaid Healthy Connections provider, if one is available within a reasonable distance of the participant's residence. Hospitals must coordinate care of patients who already have a Healthy Connections provider with that ~~PCP~~ primary care provider. ~~(3-17-22)~~( )

**414. (RESERVED)**

**415. OUTPATIENT HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.**

**01. Outpatient Hospital**. The Department will not pay more than the combined payments the provider is allowed to receive from the participants and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare. ~~For those p~~Providers subject to cost settlement, outpatient hospital services identified below that are not listed in the Department's fee schedules will be reimbursed reasonable costs based on a year-end cost settlement. ~~(3-17-22)~~( )

**a.** Maximum payment for hospital outpatient diagnostic laboratory and partial care services will be limited to the Department's ~~established~~ fee schedule. ~~(3-17-22)~~( )

~~**b.** Maximum payment for hospital outpatient partial care services will be limited to the Department's established fee schedule.~~ ~~(3-17-22)~~

~~**c**~~**b.** Hospital-based ambulance services will be reimbursed at the lower of either the provider's actual charge for the service or the maximum allowable charge for the service as established by the Department in its ~~pricing file~~ fee schedule. ~~(3-17-22)~~( )

~~**d.** Hospital Outpatient Surgery. Those items furnished by a hospital to an outpatient in connection with Ambulatory Surgical Center must be surgical procedures covered by Idaho Medicaid. The aggregate amount of payments for related facility services, furnished in a hospital on an outpatient basis, is equal to the lesser of:~~ ~~(3-17-22)~~

~~i. The hospital's reasonable costs as reduced by federal mandates for certain operating costs, capital costs, customary hospital charges; or~~ ~~(3-17-22)~~

~~ii. The blended payment amount that is based on hospital specific cost and charge data and Medicaid rates paid to free-standing Ambulatory Surgical Centers (ASC); or~~ ~~(3-17-22)~~

~~iii. The blended rate of costs and the Department's fee schedule for ambulatory surgical centers at the time of cost settlement; or~~ ~~(3-17-22)~~

~~iv. The blended rate for outpatient surgical procedures is equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the ASC amount.~~ ~~(3-17-22)~~

~~e. Hospital Outpatient Radiology Services include diagnostic and therapeutic radiology, CAT scan procedures, magnetic resonance imaging, ultrasound and other imaging services. The aggregate payment for hospital outpatient radiology services furnished will be equal to the lesser of:~~ (3-17-22)

~~i. The hospital's reasonable costs; or~~ (3-17-22)

~~ii. The hospital's customary charges; or~~ (3-17-22)

~~iii. The blended payment amount for hospital outpatient radiology equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the Department's fee schedule amount.~~ (3-17-22)

~~02. Reduction to Outpatient Hospital Costs. For services dates through June 30, 2021, outpatient costs not paid according to the Department's established fee schedule, including the hospital specific component used in the blended rates, will be reduced by five and eight-tenths percent (5.8%) of operating costs and ten percent (10%) of each hospital's capital costs component. This reduction will only apply to the following provider classes:~~ (3-17-22)

~~a. In-state hospitals specified in Section 56-1408(2), Idaho Code, that are not a Medicare designated sole community hospital or rural primary care hospital.~~ (3-17-22)

~~b. Out-of-state hospitals that are not a Medicare designated sole community hospital or rural primary care hospital.~~ (3-17-22)

**416. -- 421. (RESERVED)**

**422. RECONSTRUCTIVE SURGERY: COVERAGE AND LIMITATIONS.**
Reconstruction or restorative procedures ~~that may be rendered with prior approval by the Department~~ include procedures that restore function of the affected or related body part(s). Approvable procedures include breast reconstruction after mastectomy, or the repair of other injuries resulting from physical trauma. ~~(3-17-22)~~( )

**423. -- 430. (RESERVED)**

**431. ~~SURGICAL PROCEDURES FOR~~ WEIGHT LOSS: PARTICIPANT ELIGIBILITY.**

**01. Surgical Procedure**. Surgery for the correction of obesity is covered when all of the following conditions are met: ~~(3-17-22)~~( )

**~~01~~a. ~~Participant Medical Condition~~**. The participant must meet criteria for clinically severe obesity with a Body Mass Index (BMI) equal to or greater than forty (40), or a BMI equal to or greater than thirty-five (35) with comorbid conditions such as type 2 diabetes, hypothyroidism, atherosclerotic cardiovascular disease, or osteoarthritis of the lower extremities. The serious comorbid medical condition must be documented by the primary physician who refers the patient for the procedure, or a physician specializing in the participant's comorbid condition ~~who is~~ not associated by ~~clinic or other~~ affiliation with the performing surgeon~~s who will perform the surgery~~. ~~(3-17-22)~~( )

**~~02~~b. ~~Other Medical Condition Exists.~~** The obesity ~~is caused by the serious comorbid condition, or the obesity~~ could aggravate the participant's cardiac, respiratory or other systemic disease. ~~(3-17-22)~~( )

**~~03~~c. ~~Psychiatric Evaluation.~~** The participant must have a psychiatric evaluation to determine the stability of personality at least ninety (90) days prior to the ~~date a~~ request for prior authorization is submitted ~~to Medicaid~~. ~~(3-17-22)~~( )

**d.** Non-Surgical Treatment. Services for non-surgical treatment of obesity, except drugs, are covered when integral and are a necessary part of treatment for another medical condition covered by Medicaid. ( )

**432. ~~SURGICAL PROCEDURES FOR~~ WEIGHT LOSS: COVERAGE AND LIMITATIONS.**

~~**01. Non-Surgical Treatment for Obesity**. Services in connection with non-surgical treatment of obesity are covered only when such services are an integral and necessary part of treatment for another medical condition that is covered by Medicaid.~~ ~~(3-17-22)~~

**0~~2~~1. Abdominoplasty or Panniculectomy**. Abdominoplasty or panniculectomy is covered when ~~medically necessary, as defined in Section 011 of these rules, and when~~ the surgery is prior authorized by the Department. The request for prior authorization must include the following documentation: ~~(3-17-22)~~( )

**a.** Photographs of the front, side and underside of the ~~participant's~~ abdomen; ~~(3-17-22)~~( )

**b.** Treatment of any ulceration and skin infections involving the panniculus; (3-17-22)

**c.** Failure of conservative treatment, including weight loss; (3-17-22)

**d.** That the panniculus severely inhibits the participant's walking; (3-17-22)

**e.** That the participant is unable to wear a garment to hold the panniculus up; and (3-17-22)

**f.** Other detrimental effects of the panniculus on the participant's health such as severe arthritis in the lower body. (3-17-22)

~~**433. SURGICAL PROCEDURES FOR WEIGHT LOSS: PROCEDURAL REQUIREMENTS.**~~

~~**01. Medically Necessary**. The Department must determine the surgery to be medically necessary, as defined in Section 011 of these rules.~~ ~~(3-17-22)~~

~~**02. Prior Authorization**. The surgery must be prior authorized by the Department. The Department will consider the guidelines of private and public payors, evidence-based national standards of medical practice, and the medical necessity of each participant's case when determining whether surgical correction of obesity will be prior authorized.~~ ~~(3-17-22)~~

**433. (RESERVED)**

**434. ~~SURGICAL PROCEDURES FOR~~ WEIGHT LOSS: PROVIDER QUALIFICATIONS AND DUTIES.**
Physicians and hospitals performing surgical procedures must meet national medical standards for weight loss surgery. ~~(3-17-22)~~( )

**435. -- ~~442.~~ ~~(RESERVED)~~**

~~**443. INVESTIGATIONAL PROCEDURES OR TREATMENTS: PROCEDURAL REQUIREMENTS.**~~
~~The Department may consider Medicaid coverage for investigational procedures or treatments on a case by case basis for life-threatening medical illnesses when no other treatment options are available. For these cases, a focused case review is completed by a professional medical review organization to determine if an investigational procedure would be beneficial to the participant. The Department will perform a cost-benefit analysis on the procedure or treatment in question. The Department will determine coverage based on this review and analysis.~~ ~~(3-17-22)~~

~~**01. Focused Case Review**. A focused case review consists of assessment of the following:~~ ~~(3-17-22)~~

~~**a.** Health benefit to the participant of the proposed procedure or treatment;~~ ~~(3-17-22)~~

~~**b.** Risk to the participant associated with the proposed procedure or treatment;~~ ~~(3-17-22)~~

~~**c.** Result of standard treatment for the participant's condition, including alternative treatments other than the requested procedure or treatment;~~ ~~(3-17-22)~~

~~**d.** Specific inclusion or exclusion by Medicare national coverage guidelines of the proposed procedure or treatment; (3-17-22)~~

~~**e.** Phase of the clinical trial of the proposed procedure or treatment; (3-17-22)~~

~~**f.** Guidance regarding the proposed procedure or treatment by national organizations; (3-17-22)~~

~~**g.** Clinical data and peer-reviewed literature pertaining to the proposed procedure or treatment; and (3-17-22)~~

~~**h.** Ethics Committee review, if appropriate. (3-17-22)~~

~~**02. Additional Clinical Information**. For cases in which the Department determines that there is insufficient information from the focused case review to render a coverage decision, the Department may, at its discretion, seek an independent professional opinion. (3-17-22)~~

~~**03. Cost-Benefit Analysis**. The Department will perform a cost-benefit analysis that will include at least the following: (3-17-22)~~

~~**a.** Estimated costs of the procedure or treatment in question. (3-17-22)~~

~~**b.** Estimated long-term medical costs if this procedure or treatment is allowed. (3-17-22)~~

~~**c.** Estimated long-term medical costs if this procedure is not allowed. (3-17-22)~~

~~**d.** Potential long-term impacts approval of this procedure or treatment may have on the Medical Assistance Program. (3-17-22)~~

~~**04. Coverage Determination**. The Department will make a decision about coverage of the investigational procedure or treatment after consideration of the focused case review, cost-benefit analysis, and any additional information received during the review process. (3-17-22)~~

~~444. --~~449. (RESERVED)

**SUB AREA: AMBULATORY SURGICAL CENTERS**
**(Sections 450-499)**

**450. -- 451. (RESERVED)**

**452. AMBULATORY SURGICAL CENTER SERVICES: COVERAGE AND LIMITATIONS.**
~~Those s~~Surgical procedures identified by the Medicare program as appropriately and safely performed in an ASC will be reimbursed by the Department. ~~In addition, t~~The Department may add surgical procedures to the list developed by the Medicare program ~~as required by 42 CFR 416.164~~ if the procedures meet the criteria ~~identified~~ in 42 CFR 416.166. ~~(3-17-22)~~( )

**453. (RESERVED)**

**454. AMBULATORY SURGICAL CENTER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

~~**01. Provider Approval.** ~~The ASC must be surveyed as required by 42 CFR 416.25 through 416.52 and be approved by the U.S. Department of Health and Human Services for participation as a Medicare ASC provider. ~~(3-17-22)~~( )

~~**02. Cancellation**. Grounds for cancellation of the provider agreement include: (3-17-22)~~

~~a. The loss of Medicare program approval; or (3-17-22)~~

~~b. Identification of any condition that threatens the health or safety of patients by the Department's Bureau of Facility Standards. (3-17-22)~~

**455. AMBULATORY SURGICAL CENTER SERVICES: PROVIDER REIMBURSEMENT.**

**01. Payment Methodology**. ASC services reimbursement is ~~designed to pay~~ packaged for use of facilities and necessary supplies ~~necessary to safely care for the patient. Such services are reimbursed as follows:~~ as recognized by the Medicare program under 42 CFR, Part 416.164. ~~(3-17-22)~~( )

**a.** ~~ASC service payments represent reimbursement for the costs of goods and services recognized by the Medicare program under 42 CFR, Part 416. Payment will be determined by the Department. Any surgical procedure covered by the Department, but which is not covered by Medicare will have a reimbursement rate established by t~~The Department will establish a reimbursement rate for any covered procedure not covered by Medicare. ~~(7-1-24)~~( )

~~b. ASC services include the following: (3-17-22)~~

~~i. Nursing, technician, and related services; (3-17-22)~~

~~ii. Use of ASC facilities; (3-17-22)~~

~~iii. Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of surgical procedures; (3-17-22)~~

~~iv. Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure; (3-17-22)~~

~~v. Administration, recordkeeping, and housekeeping items and services; and (7-1-24)~~

~~vi. Materials for anesthesia. (3-17-22)~~

~~c. ASC services do not include the following services: (3-17-22)~~

~~i. Physician services; (3-17-22)~~

~~ii. Laboratory services, x-ray or diagnostic procedures (other than those directly related to the performance of the surgical procedure); (3-17-22)~~

~~iii. Prosthetic and orthotic devices; (3-17-22)~~

~~iv. Ambulance services; (3-17-22)~~

~~v. DME typically used in the participant's place of residence, but may be suitable for use in any setting in which normal life activities take place, other than a hospital, nursing facility, or ICF/IID; and (7-1-24)~~

~~vi. Any other service not specified in Subsection 455.01.b. of this rule. (3-17-22)~~

~~02. Payment for Ambulatory Surgical Center Services. Payment is made at a rate established under Section 230 of these rules. (7-1-24)~~

**456. -- 4~~9~~79. (RESERVED)**

**SUB AREA: CASE MANAGEMENT SERVICES
(Sections 480-489)**

**480. HOME VISITING SERVICES.**
Home visiting provides for parents of vulnerable children to receive education and support on parenting topics. ( )

**481. HOME VISITING SERVICES: PARTICIPANT ELIGIBILITY.**
Participants under five (5) years of age and pregnant women at risk for abuse, neglect, or child welfare involvement. Additional requirements are in the Idaho Medicaid Provider Handbook. ( )

**482. HOME VISITING SERVICES: COVERAGE AND LIMITATIONS.**

**01. Home Visiting Coverage**. ( )

**a.** Assessment for medical, educational, social, or other service needs; ( )

**b.** Development and revision of a plan to address goals; ( )

**c.** Referral and related activities for necessary services; and ( )

**d.** Monitoring of progress. ( )

**02. Home Visiting Limitations**. Services do not include case management integral to another covered service or that constitutes direct delivery of referred services. ( )

**483. (RESERVED)**

**484. HOME VISITING SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**
This service is provided by the Public Health Districts. Eligible providers are certified in an evidence-based model including: ( )

**01. Parents as Teachers**. or ( )

**02. Nurse-Family Partnership**. ( )

**485. – 489. (RESERVED)**

**490. COMMUNITY RE-ENTRY SERVICES: TARGETED CASE MANAGEMENT.**
Medicaid will reimburse for targeted case management services for eligible incarcerated participants thirty (30) days prior to, and thirty (30) days after, their release into the community. Eligible participants are those incarcerated with an adjudicated case up to age twenty-one (21) for the general population and up to age twenty-six (26) for those formerly in foster care. Services include transitioning back into the community by providing access to behavioral, educational, mental, social, and other services. ( )

**490. – 499. (RESERVED)**

**SUB AREA: ~~PHYSICIAN~~MEDICAL SERVICES ~~AND ABORTION PROCEDURES~~**
**(Sections 500-519)**

**500. ~~PHYSICIAN~~MEDICAL SERVICES.**
~~Physician~~Medical services include the treatment of medical and surgical conditions by ~~doctors of medicine or osteopathy~~ licensed professionals subject to the limitations of practice imposed by state law, and to the restrictions and exclusions of coverage ~~contained in Section 390 and Section 502 of~~ under these rules. ~~(3-17-22)~~( )

**501. (RESERVED)**

**502. ~~PHYSICIAN~~MEDICAL SERVICES: COVERAGE AND LIMITATIONS.**

**~~01.~~ ~~Sterilization Procedures~~**. ~~Restrictions pertaining to payment for sterilization procedures are~~

~~contained in Sections 680 through 686 of these rules.~~ ~~(3-17-22)~~

~~02. Abortions. Restrictions governing payment for abortions are contained in Sections 511 through 514 of these rules.~~ ~~(3-17-22)~~

03. **Tonometry**. Payment for tonometry is limited to one (1) examination ~~for individuals over the age of forty (40) years during any twelve (12) month period (in addition to tonometry as a component of examination to determine visual acuity). In the event examination to determine visual acuity is not done,~~ or, when the examination to determine visual acuity is not done, two (2) tonometry examinations per twelve (12) month period are allowed for participants over the age of forty (40). This limitation does not apply to participants receiving continuing treatment for glaucoma. ~~(3-17-22)~~( )

~~04. Physical Therapy Services. Payment for physical therapy services performed in the physician's office is limited to those services that are described and supported by the diagnosis.~~ ~~(3-17-22)~~

05. **Injectable Vitamins**. Payment for allowable injectable vitamins will be allowed when supported by the diagnosis. Injectable vitamin therapy is limited to Vitamin B12 (and analogues), Vitamin K (and analogues), folic acid, and mixtures consisting of Vitamin B12, folic acid, and iron salts in any combination. (3-17-22)

06. **Corneal Transplants and Kidney Transplants**. Corneal transplants and kidney transplants are covered by ~~the Medical Assistance Program~~ Medicaid. ~~(3-17-22)~~( )

04. **Adult Physicals**. Adult preventive physical examinations are limited to one (1) per year. ( )

05. **Screening Mammograms**. Screening mammograms are covered when aligned with the "A" or "B" recommendations of the United States Preventative Services Task Force. ( )

**503. (RESERVED)**

**504. ~~PHYSICIAN~~MEDICAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

01. **Misrepresentation of Services**. Any representation that a service provided by a ~~nurse practitioner, nurse midwife, physical therapist, physician assistant, psychologist, social worker, or other nonphysician professional~~ provider other than a physician as a physician service is prohibited. ~~(3-17-22)~~( )

02. **Locum Tenens Claims and Reciprocal Billing**. Locum Tenens is allowed as detailed in the Idaho Medicaid Provider Handbook. ~~(3-17-22)~~( )

~~a. In reimbursement for Locum Tenens/reciprocal billing, the patient's regular physician may submit the claim and receive payment for covered physician services (including emergency visits and related services) provided by a Locum Tenens physician who is not an employee of the regular physician if:~~ ~~(3-17-22)~~

~~i. The regular physician is unavailable to provide the visit services.~~ ~~(3-17-22)~~

~~ii. The Medicaid patient has arranged for or seeks to receive services from the regular physician.~~ ~~(3-17-22)~~

~~iii. The regular physician pays the Locum Tenens for their services on a per diem or similar fee-for-time basis.~~ ~~(3-17-22)~~

~~iv. The substitute physician does not provide the visit services to Medicaid patients over a continuous period of longer than ninety (90) days for Locum Tenens and over a continuous period of fourteen (14) days for reciprocal billing.~~ ~~(3-17-22)~~

~~v. The regular physician identifies the services as substitute physician services meeting the requirements of this rule by appending modifier Q6 (service furnished by a Locum Tenens physician) to the procedure code or Q5 (services furnished by a substitute physician under reciprocal billing arrangements).~~ ~~(3-17-22)~~

~~vi. The regular physician must keep on file a record of each service provided by the substitute physician associated with the substitute physician's UPIN, and make this record available to the department upon request.~~ ~~(3-17-22)~~

~~vii. The claim identifies, in a manner specified by the Department, the physician who furnished the services.~~ ~~(3-17-22)~~

~~**b.** If the only Locum Tenens/reciprocal billing services a physician performs in connection with an operation are post-operative services furnished during the period covered by the global fee, those services may not be reported separately on the claim as substitution services, but must be deemed as included in the global fee payment.~~ ~~(3-17-22)~~

~~**c.** A physician may have Locum Tenens/reciprocal billing arrangements with more than one (1) physician. The arrangements need not be in writing. Locum Tenens/reciprocal billing services need not be provided in the office of the regular physician.~~ ~~(3-17-22)~~

## ~~505. PHYSICIAN SERVICES: PROVIDER REIMBURSEMENT.~~

~~**01. Physician Penalties for Late QIO Review**. Medicaid will assess the physician a penalty for failure to request a preadmission review from the Department, for procedures and diagnosis listed on the select list in the Department's Physician Provider Handbook and the QIO Idaho Medicaid Provider Manual. If a retrospective review determines the procedure was medically necessary, and the physician was late in obtaining a preadmission review the Department will assess a penalty according to Subsection 505.02 of this rule. The penalty will be assessed after payment for physician services has occurred.~~ ~~(3-17-22)~~

~~**02. Physician Penalty Schedule**.~~ ~~(3-17-22)~~

~~**a.** A request for preadmission QIO review that is one (1) day late will result in a penalty of fifty dollars ($50).~~ ~~(3-17-22)~~

~~**b.** A request for preadmission QIO review that is two (2) days late will result in a penalty of one hundred dollars ($100).~~ ~~(3-17-22)~~

~~**c.** A request for preadmission QIO review that is three (3) days late will result in a penalty of one hundred and fifty dollars ($150).~~ ~~(3-17-22)~~

~~**d.** A request for preadmission QIO review that is four (4) days late will result in a penalty of two hundred dollars ($200).~~ ~~(3-17-22)~~

~~**e.** A request for preadmission QIO review that is five (5) days late or later will result in a penalty of two hundred and fifty dollars ($250).~~ ~~(3-17-22)~~

~~**03. Physician Excluded From the Penalty**. Any physician who provides care but has no control over the admission, continued stay, or discharge of the patient will not be penalized. Assistant surgeons and multi-surgeons are not excluded from the penalty.~~ ~~(3-17-22)~~

**506. -- 510. (RESERVED)**

## 511. ABORTION PROCEDURES: PARTICIPANT ELIGIBILITY.

The Department will fund abortions under circumstances where the abortion is necessary to save the life of the woman~~, or in cases of rape or incest as determined by the courts, or, where no court determination has been made, if reported to a law enforcement agency or child protective services~~. ~~(7-1-24)~~( )

**512. -- 513. (RESERVED)**

## 514. ABORTION PROCEDURES~~: PROVIDER QUALIFICATIONS AND DUTIES~~.

~~**01. Required Documentation in the Case of Rape or Incest**. In the case of rape or incest, the following documentation must be provided to the Department:~~ ~~(3-17-22)~~

~~**a.** A copy of the court determination of rape or incest; or~~ ~~(3-17-22)~~

~~**b.** Where no court determination has been made, documentation that the rape or incest was reported to a law enforcement agency or child protective services; or~~ ~~(7-1-24)~~

~~**c.** Where the rape or incest was not reported to a law enforcement agency or child protective services, a physician must certify in writing their professional opinion that the woman was unable due to her health, to file a report. The certification must contain the name and address of the woman.~~ ~~(7-1-24)~~

~~**02. Required Documentation in the Case to Save a Woman's Life**. In the case w~~Where the abortion is necessary to save the life of the woman, a licensed physician must certify in writing that the woman may die if the fetus is carried to term. ~~The certification must contain the name and address of the woman.~~ ~~(7-1-24)~~( )

**515. -- 519. (RESERVED)**

**SUB AREA: OTHER ~~PRACTITIONER~~ PROVIDER SERVICES**
**(Sections 520-559)**

**520. -- ~~521.~~ ~~(RESERVED)~~**

~~**522. NON-PHYSICIAN PRACTITIONER SERVICES: COVERAGE AND LIMITATIONS.**~~
~~The Medicaid Program will pay for services provided by non-physician practitioners (NPPs), as defined in these rules and in accordance with the provisions found under Sections 523 through 525 of these rules.~~ ~~(3-17-22)~~

~~**523. (RESERVED)**~~

~~**524. NON-PHYSICIAN PRACTITIONER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~

~~**01. Identification of Services**. The required services must be covered under the legal scope of practice as identified by the appropriate State rules of the NPP.~~ ~~(3-17-22)~~

~~**02. Deliverance of Services**. The services must be delivered under physician supervision, if required by state regulations where the service is provided.~~ ~~(7-1-24)~~

~~**525. NON-PHYSICIAN PRACTITIONER SERVICES: PROVIDER REIMBURSEMENT.**~~

~~**01. Billing of Services**. Billing for the services must be as provided by the NPP and not represented as a physician service.~~ ~~(3-17-22)~~

~~**02. Payments Made Directly to CRNA**. Payments under the fee schedule must be made directly to the CRNA under the individual provider number assigned to the CRNA. Rural hospitals that qualify for a Medicare exception and employ or contract CRNAs may be reimbursed on a reasonable cost basis.~~ ~~(3-17-22)~~

~~**03. Reimbursement Limits**. The Department will reimburse for each service to be delivered by the NP, NM, CNS, PA, or RPh as either the billed charge or reimbursement limit established by the Department, whichever is less.~~ ~~(3-17-22)~~

**~~526.~~ 529. (RESERVED)**

**530. CHIROPRACTIC SERVICES: DEFINITIONS.**
Subluxation is partial or incomplete dislocation of the spine. (3-17-22)

**531. (RESERVED)**

**532. CHIROPRACTIC SERVICES: COVERAGE AND LIMITATIONS.**
Only treatment involving manipulation of the spine to correct a subluxation condition is covered. ~~The Department will pay for a total of six (6) manipulation visits during any calendar year for remedial care by a chiropractor.~~ ~~(3-17-22)~~( )

**533. ~~(RESERVED)~~**

**~~534. CHIROPRACTIC SERVICES: PROVIDER QUALIFICATIONS.~~**
~~A person who is qualified to provide chiropractic services is licensed according to the regulations in the state where the services are provided.~~ ~~(3-17-22)~~

**~~535.~~ -- 539. (RESERVED)**

**540. PODIATRIST SERVICES: DEFINITIONS.**

**01. Acute Foot Conditions**. An acute foot condition~~, for the purpose of this provision,~~ means any condition that hinders normal function, threatens the individual, or complicates any disease. ~~(3-17-22)~~( )

**02. Chronic Foot Diseases**. Chronic foot diseases~~, for the purpose of this provision,~~ include: ~~(3-17-22)~~( )

**a.** Diabetes mellitus; (3-17-22)

**b.** Peripheral neuropathy involving the feet; (3-17-22)

**c.** Chronic thrombophlebitis;~~ and~~ ~~(3-17-22)~~( )

**d.** Peripheral vascular disease; (3-17-22)

**e.** Other chronic conditions that require regular podiatric care for the purpose of preventing recurrent wounds, pressure ulcers, or amputation; or (3-17-22)

**f.** Other conditions that have the potential to seriously or irreversibly compromise overall health. (3-17-22)

**541. PODIATRIST SERVICES: PARTICIPANT ELIGIBILITY.**
Participants eligible for podiatrist services are those with a(n): ~~(3-17-22)~~( )

**01. ~~Participants Who Have a~~ Chronic Disease**. ~~Participants who have a chronic disease where the evidence-based guidelines recommend regular foot care.~~ ~~(3-17-22)~~( )

**02. ~~Participants with an~~ Acute Condition**. ~~Participants with a~~An acute condition that, if left untreated, may cause an adverse outcome to the participant's health. ~~(3-17-22)~~( )

**542. PODIATRIST SERVICES: COVERAGE AND LIMITATIONS.**
Coverage for podiatrist services is limited to~~:~~ ~~(3-17-22)~~

**~~01. Services Defined in Chronic Care Guidelines~~**. ~~Acute and~~ preventive foot care services ~~defined in~~ for chronic ~~care guidelines;~~ foot conditions and ~~(3-17-22)~~

**~~02. Treatment of Acute Conditions~~**. ~~Treatment of~~ acute conditions that if left untreated will result in chronic damage to the participant's foot. ~~(3-17-22)~~( )

**543. – 545. (RESERVED)**

**~~544. PODIATRIST SERVICES: PROVIDER QUALIFICATIONS.~~**

~~A qualified podiatrist is licensed by the Board of Podiatry in the Idaho Board of Occupational Licensing, or licensed according to the regulations in the state where the services are provided.~~ ~~(3-17-22)~~

~~**545. (RESERVED)**~~

**546. LICENSED MIDWIFE (LM) SERVICES.**
The Department will reimburse ~~licensed midwives~~ LMs for maternal and newborn services performed within the scope of their practice. This section of rule does not include ~~non-physician practitioner~~ services provided by a nurse midwife ~~(NM) which are described in Sections 522 through 525 of these rules~~. ~~(3-17-22)~~( )

~~**547. LM SERVICES: DEFINITIONS.**~~

~~**01. Licensed Midwife**. An individual who holds a current license issued by the Idaho Board of Midwifery.~~ ~~(3-17-22)~~

~~**02. Board of Midwifery**. The Idaho Board of Midwifery is located within the Idaho Bureau of Occupational Licensing and is the licensing authority for LM providers.~~ ~~(3-17-22)~~

**547. (RESERVED)**

**548. LM SERVICES: PARTICIPANT ELIGIBILITY.**
~~A participant is eligible for~~ LM services ~~if the participant is pregnant, in the six (6) week postpartum period, or is a newborn up to six (6) weeks old~~ are available for participants in maternity, or newborn participants. ~~(3-17-22)~~( )

**549. LM SERVICES: COVERAGE AND LIMITATIONS.**

**01. Maternity and Newborn ~~– Coverage~~**. Antepartum, intrapartum, and ~~up to six (6) weeks of~~ postpartum maternity and newborn care are covered. ~~(3-17-22)~~

~~**02. Maternity and Newborn – Limitations.**~~ Maternal or newborn services provided after the ~~sixth~~ postpartum ~~week~~ period are not covered when provided by a CPM. ~~(7-1-24)~~( )

**0~~3~~2. Medication ~~– Coverage and Limitations~~**. ~~LM providers may administer medication and bill Medicaid if the medication is a Medicaid-covered service, and is also~~ Covered medication listed in the LM formulary under IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." ~~(7-1-24)~~( )

~~**550. LM SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~
~~Each LM provider must:~~ ~~(3-17-22)~~

~~**01. Licensed**. Have a current license as a LM from the Idaho Board of Midwifery or be licensed according to the regulations in the state where the services are provided.~~ ~~(3-17-22)~~

~~**02. Scope of Practice**. Provide only those services that are within the scope of practice under IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery."~~ ~~(3-17-22)~~

~~**551. LM SERVICES: PROVIDER REIMBURSEMENT.**~~
~~Reimbursement for LM services will be the lesser of the billed amount, or eighty five percent (85%) of the Department's physician fee schedule, The physician fee schedule is available from the Central Office for the Division of Medicaid, see online at: http://www.idmedicaid.com.~~ ~~(3-17-22)~~

**550. -- 551. (RESERVED)**

**552. LM SERVICES: PROVIDER QUALITY ASSURANCE ACTIVITIES.**
Each ~~Licensed Midwife (~~LM~~)~~ provider must maintain for Department review documentation of: ~~(3-17-22)~~( )

**01. Informed Consent ~~– Form Required~~**. ~~Keep a signed copy of the participant's informed consent in the participant's record.~~ ~~(3-17-22)~~( )

~~**02. Compliance with Board of Midwifery Requirements.** Adhere to all regulations listed in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-17-22)~~

0~~3~~2. ~~**Department Access to**~~ **Practice Data**. ~~Make all practice data submitted to the Board of Midwifery according to the provisions in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery," immediately available to the Department upon request.~~ ~~(3-17-22)~~( )

~~**553. (RESERVED)**~~

~~**554. OPTOMETRIST SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~
~~Optometrist services are provided to the extent specified in the individual provider agreements entered into under the provisions of Section 205 of these rules. (3-17-22)~~

~~**01. Payment Availability**. Payment for services included in Sections 780 through 786 of these rules is available to all licensed optometrists. (3-17-22)~~

~~**02. Provider Qualifications**. Optometrists who have certification or licensure according to the regulations in the state where the services are provided, qualify for provider agreements allowing payment for the diagnosis and treatment of injury or disease of the eye to the extent allowed under Section 54-1501, Idaho Code, and to the extent payment is available to physicians as defined in these rules. (3-17-22)~~

**553. OPTOMETRIST SERVICES: COVERAGE AND LIMITATIONS.**
The Department will pay for vision services for the diagnosis and treatment of injury or disease of the eye to the extent allowed under Section 54-1501, Idaho Code, and Sections 780 through 786 of these rules. ( )

**55~~5~~4. -- 559. (RESERVED)**

**SUB AREA: PRIMARY CARE CASE MANAGEMENT**
**(Sections 560-579)**

**560. HEALTHY CONNECTIONS: DEFINITIONS.**
Healthy Connections is a ~~primary care case management~~ PCCM program in which a ~~primary care provider~~ PCP or team provides comprehensive medical care for participants with the goal of improving health outcomes. ~~For purposes of this Sub Area that includes~~ Under Sections 560 through 566 of these rules, the following ~~terms and~~ definitions apply: ~~(3-17-22)~~( )

~~**01. Capitated Payments**. Payments to a primary care provider made on a per assigned participant per month basis for patient services. Capitated payments will vary to reflect the level of responsibility for services the provider elects to provide as described in Section 564 of these rules. Capitated payments may include payment for all provider services at a set rate per participant per month when that type of full risk reimbursement is agreed to by the provider and the Department. (3-17-22)~~

0~~2~~1. **Clinic**. Two (2) or more ~~qualified medical professionals~~ providers who provide services jointly through an organization for which an individual is given authority to act on its behalf. ~~It also~~ include~~s~~ing Federally Qualified Health Centers (FQHCs), ~~Certified~~ Rural Health Clinics (RHCs), and Indian Health Clinics. ~~(3-17-22)~~( )

0~~3~~2. **Grievance**. The formal process by which problems and complaints related to Healthy Connections are addressed and resolved. ~~Grievance decisions may be appealed as provided herein.~~ ~~(3-17-22)~~( )

0~~4~~3. **Patient-Centered Medical Home (PCMH)**. A model of primary care that is patient-centered, comprehensive, team-based, coordinated, accessible, and focused on quality and safety. This results in primary care being delivered at the right place, at the right time, and in the manner that best suits a patient's needs. ~~(3-17-22)~~( )

0~~5~~4. **Preventive Care**. Medical care that focuses on disease prevention and health maintenance. (3-17-22)

**0~~6~~5. Primary Care Case Management (PCCM)**. A model of care in which ~~primary care providers~~ PCPs and their primary care team are responsible for direct care of a participant, and ~~for~~ coordinating access to services that improve the ~~health of the~~ participant's health. ~~(3-17-22)~~( )

**0~~7~~6. Primary Care Provider (PCP)**. A ~~physician, physician assistant, or advanced practice registered nurse as defined in IDAPA 24.34.01,"Rules of the Idaho Board of Nursing,"~~ provider who contracts with Medicaid to coordinate and manage the care of participants enrolled in the Healthy Connections program. ~~(3-17-22)~~( )

**0~~8~~7. Primary Care Team**. A multidisciplinary team of health care providers who work together to meet the physical, emotional, and psychological needs of their patients using a patient-centered and coordinated approach. (3-17-22)

**0~~9~~8. Referral**. A documented communication from a participant's ~~primary care provider (~~PCP~~)~~ to another Medicaid provider authorizing specific covered services subject to ~~primary care case management~~ PCCM that are not provided by the participant's PCP. ~~(3-17-22)~~( )

**~~1~~09. Transitional Care**. A set of actions designed to ensure the coordination and continuity of health care as patients transfer between different locations or different levels of care within the same location. (3-17-22)

## 561. HEALTHY CONNECTIONS: PARTICIPANT ELIGIBILITY.

**01. P~~rimary Care Case M~~rimary Care Case Management Enrollment**. ~~Each participant in Idaho~~ All Medicaid ~~is~~ participants are enrolled in Healthy Connections, unless ~~the participant is~~ granted an exemption ~~by the Department described in Subsections 561.02.a. through 561.02.h. of this~~ under these rules. ~~Each p~~Participants must choose a PCP within the Healthy Connections program. ~~If a participant fails to choose a PCP~~, or one will be assigned ~~to the participant~~ by the Department. Participants of the same family may choose different Healthy Connections providers. ~~(3-17-22)~~( )

**02. Exemption from Participation**. An exemption from participation in Healthy Connections may be granted on an individual basis by the Department for a participant who: (3-17-22)

**a.** Is unable to access a Healthy Connections provider within a distance of thirty (30) miles, or within thirty (30) minutes to obtain primary care services; (3-17-22)

**b.** Has an eligibility period that is less than three (3) months; (3-17-22)

**c.** Has an eligibility period that is only retroactive; (3-17-22)

**d.** Is eligible only as a Qualified Medicare Beneficiary; (3-17-22)

**e.** Has an existing relationship with a ~~primary care physician~~ PCP or clinic who is not participating in Healthy Connections; ~~(3-17-22)~~( )

**f.** Is enrolled in the Medicare/Medicaid Coordinated Plan; (3-17-22)

**g.** Resides in an ~~nursing facility~~ NF or ~~an~~ ICF/IID; or ~~(3-17-22)~~( )

**h.** Resides in a county where there are not an adequate number of providers to deliver ~~primary care case management~~ PCCM services. ~~(3-17-22)~~( )

## 562. HEALTHY CONNECTIONS: PRIMARY CARE SERVICES.

**01. Eligible Services**. Participants enrolled with a ~~primary care provider (~~PCP~~)~~ are eligible to receive: ~~(3-17-22)~~( )

**a.** Basic care management and care coordination; (3-17-22)

**b.** Timely access to routine primary care; (3-17-22)

**c.** A patient-centered health care decision making process; (3-17-22)

**d.** Twenty-four (24) hour, seven (7) days per week access to an on-call ~~medical professional~~ provider; and ~~(3-17-22)~~( )

**e.** Referral to other medically necessary services ~~as specified in Section 210 of~~ under these rules, based on the clinical judgment of their ~~primary care provider~~ PCP. ~~(3-17-22)~~( )

**02. Selection or Change in P~~rimary~~ C~~are~~ P~~rovider~~**. Participants may select or change their ~~primary care provider~~ PCP as follows: ~~(3-17-22)~~( )

**a.** When they become eligible for ~~Idaho Medicaid benefits~~, or after a break in their eligibility for, ~~Idaho~~ Medicaid ~~benefits~~; ~~(3-17-22)~~( )

**b.** For cause ~~at any time ("for cause"~~: reasons ~~are~~ listed in the Idaho Medicaid Provider Handbook~~)~~. ~~(3-17-22)~~( )

**c.** Without cause: (3-17-22)

i. During the ninety (90) days following the effective date of the participants enrollment with a PCP. (3-17-22)

ii. At least once every twelve (12) months thereafter during the open enrollment period. (3-17-22)

**d.** All approved PCP change requests will be effective the first of the following month. (3-17-22)

## 563. HEALTHY CONNECTIONS: PROCEDURAL REQUIREMENTS.

**01. Changes to Requirements**. The Department will provide sixty (60) day notice of any substantive ~~and significant~~ changes to requirements for referrals, ~~primary care provider~~ PCP reimbursement, ~~as specified in Section 565 of~~ under these rules, or provider duties on its website and provider portal. The Department will provide a method ~~to allow~~ for providers to provide input and comment on proposed changes. ~~(3-17-22)~~( )

**02. Problem Resolution**. (3-17-22)

**a.** ~~To help assure the success of Healthy Connections, t~~The Department provides a mechanism for timely and personal attention to problems and complaints related to the program. ~~(3-17-22)~~( )

**b.** ~~To facilitate problem resolution, t~~The Department will have a designated representative who will receive ~~and attempt to resolve~~ all complaints and problems related to the program and function as a liaison between participants and providers. ~~It is anticipated that most problems and complaints will be resolved informally at this level.~~ ~~(3-17-22)~~( )

**c.** A participant or a provider may ~~register a complaint or~~ notify the Department of a problem or complaint related to Healthy Connections ~~either~~ in writing, electronically, or by telephone to the designated representative. The ~~designated~~ representative will attempt to resolve conflicts and disputes informally at this level whenever possible and refer the complainant to alternative forums where appropriate. ~~(3-17-22)~~( )

**d.** If a participant or provider is not satisfied with the resolution of a problem or complaint addressed by the designated representative, they may file a formal grievance in writing to the representative. The manager of the managed care program may~~, where appropriate,~~ refer the matter to a review committee designated by the Department to address issues such as quality of care or medical necessity~~.~~; ~~H~~however, such decisions are not binding on the Department. The Department will respond in writing to grievances within thirty (30) days of receipt. ~~(3-17-22)~~( )

**e.** Decisions in response to grievances may be appealed. ~~Appeals are governed by the requirements of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," and must be filed according to the provisions of that chapter.~~ ~~(3-17-22)~~( )

**564. HEALTHY CONNECTIONS: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. P~~rimary Care P~~roviders**. Primary care services may be provided by enrolled ~~physicians, physician assistants, advanced practice registered nurses,~~ providers and by care teams under those providers' direction. ~~(3-17-22)~~( )

**02. Provider Duties**. All Healthy Connections providers are responsible for delivering the services ~~listed~~ in Section 562 of these rules. ~~(3-17-22)~~( )

**03. Additional Services**. Healthy Connections providers may ~~also~~ elect to provide specific additional sets of ~~patient-centered medical home~~ PCMH services in exchange for increased reimbursement ~~as described in~~ under Section 565 of these rules. The definition and provision of additional ~~patient-centered medical home~~ PCMH services are subject to specific requirements ~~as~~ defined by the Department, ~~and described in~~ the Idaho Medicaid Provider Handbook, and individual provider agreements ~~with the Department. Additional services may include:~~ ~~(3-17-22)~~( )

~~**a.** Connection to the Idaho Health Data Exchange; (3-17-22)~~

~~**b.** Maintaining third-party patient-centered medical home recognition or certification; (3-17-22)~~

~~**c.** Expanded patient access to services; (3-17-22)~~

~~**d.** Provision of an evidence-based primary care service model that enables improved patient health outcomes; (3-17-22)~~

~~**e.** Reporting clinical data to the Department to allow for assessment of provider abilities and impact of their services on patient health outcomes; (3-17-22)~~

~~**f.** Coordination of transitions of care between health care settings; (3-17-22)~~

~~**g.** Integration of behavioral health services; and (3-17-22)~~

~~**h.** Other indicators of improved patient health outcomes associated with primary care provider abilities. (3-17-22)~~

**04. Provider Participation Conditions and Restrictions**. (3-17-22)

**a.** Provider Agreements. Each independent provider or provider organization participating in ~~primary care case management~~ PCCM must: ~~(3-17-22)~~( )

i. Sign an agreement; (3-17-22)

ii. Enroll with the Department all ~~primary care providers~~ PCPs and ~~all~~ clinic locations participating in ~~the~~ Healthy Connections ~~program~~; and ~~(3-17-22)~~( )

iii. Complete pre-enrollment requirements for participation in ~~the~~ Healthy Connections ~~program as defined by the Department~~ described in the Idaho Medicaid Provider Handbook. ~~(3-17-22)~~( )

**b.** Patient Limits. A provider may limit the number of participants they manage. Subject to this limit, the provider must accept all participants who either elect or are assigned to the provider, unless disenrolled ~~in accordance with~~ under Subsection 564.02.d. of this rule. A provider may change the participant limit effective the first day of any month~~. The provider must~~ by make ing the request in writing to the Department thirty (30) days prior to the effective date of the change. ~~(3-17-22)~~( )

**c.** Disenrollment. When the provider-patient relationship breaks down due to failure of the participant to follow the care plan or for other reasons, a provider may choose to withdraw as the participant's ~~primary care provider~~ PCP effective the first day of any month. The PCP must notify ~~in writing,~~ both the participant and the Department in writing thirty (30) days prior to the date of withdrawal. This advance notice requirement may be waived by the Department. ~~(3-17-22)~~( )

**d.** Record Retention. Each provider must: (3-17-22)

i. Retain patient and financial records and provide the Department access ~~to those records~~ for a minimum of six (6) years from the date of service; and ~~(3-17-22)~~( )

ii. Upon the reassignment of a participant to another PCP, the provider must transfer (if a request is made) a copy of the patient's medical record to the new PCP~~; and~~. ~~(3-17-22)~~( )

~~iii. Disclose information required by Subsection 205.01 of these rules, when applicable.~~ ~~(3-17-22)~~

~~e. Termination or Amendment of Provider Agreements. The Department may terminate a provider's agreement as provided in Subsection 205.03 of these rules. An agreement may be amended for the same reasons.~~ ~~(3-17-22)~~

**565. HEALTHY CONNECTIONS: PROVIDER REIMBURSEMENT.**

**01. Capitated Payments**. Healthy Connections providers are compensated for their patient care services on a per participant per month basis. Capitated payments will vary to reflect the level of responsibility for services the provider elects to provide under Section 564 of these rules. Capitated payments may include payment for all provider services at a set rate per participant per month when that type of full-risk reimbursement is agreed to by the provider and the Department. ~~(3-17-22)~~( )

**02. Capitated Payment Amounts**. Capitated payment amounts are determined by the Department and reflect the complexity of the patient's health combined with the provider's ability to impact patient health outcomes. This monthly payment to a provider is based on the number of participants assigned to the provider on the first day of each month. (3-17-22)

**566. HEALTHY CONNECTIONS: QUALITY ASSURANCE.**
The Department will establish performance measurements to evaluate the effectiveness of the ~~primary care case management programs. The performance measurements~~ PCCMs, which will be reviewed at least annually and adjusted as necessary to provide quality assurance. ~~(3-17-22)~~( )

**567. -- 569. (RESERVED)**

**SUB AREA: PREVENTION SERVICES**
**(Sections 570-649)**

**570. CHILDREN'S HABILITATION INTERVENTION SERVICES (CHIS).**
CHIS are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to ~~Medicaid-eligible~~ participants with identified developmental limitations that impact their ~~participant's~~ functional skills and behaviors across an array of developmental domains. Case Management is an available option to assist participants accessing CHIS by the Department as described in the Medicaid Provider Handbook. ~~(3-17-22)~~( )

**571. CHIS: DEFINITIONS.**

**01. Annual**. Every three hundred sixty-five (365), days ~~except during a leap year which equals~~ or three hundred sixty-six (366) days during a leap year. ~~(3-17-22)~~( )

**02. Aversive Intervention**. Uses unpleasant physical or sensory stimuli in an attempt to reduce

undesired behavior. The stimuli usually cannot be avoided, or is pain inducing~~, or both~~. ~~(3-17-22)~~( )

**03. Community**. Natural, integrated environments outside the participant's home, outside of DDA center-based settings, or at school outside of school hours. (3-17-22)

**04. Developmental Disabilities Agency (DDA)**. A~~ DDA is an agency that is:~~ business entity that meets the definition of a developmental disabilities facility under Section 39-4604(3), Idaho Code, that is certified by the Department to provide services to individuals with developmental disabilities.~~ (3-17-22)~~( )

~~**a.** A type of developmental disabilities facility, as defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; (3-17-22)~~

~~**b.** Certified by the Department to provide services to participants with developmental disabilities; and (3-17-22)~~

~~**c.** A business entity, open for business to the general public. (3-17-22)~~

**05. Duplicat~~ion of~~ Services**. Services are~~ considered~~ duplicate when: ~~(3-17-22)~~( )

**a.** Goals are not separate and unique to each service provided; or (3-17-22)

**b.** When more than one (1) service is provided at the same time, unless otherwise authorized. (3-17-22)

**06. Educational Services**. Services~~ that are~~ provided in buildings~~, rooms~~ or areas designated or used as a school or as educational facilities;~~ that are~~ provided during~~ specific hours and~~ time periods in which~~ the~~ educational instruction takes place in the normal school day~~ and period of time for these students~~;~~ and that are~~ included in~~ the~~ a participant's individual educational plan~~ for the participant~~ or required by federal and state educational statutes or regulations;~~ are not related service;~~ and such services are provided to school age individuals ~~defined in~~ under Section 33-201, Idaho Code. ~~(3-17-22)~~( )

**07. Evidence-Based Interventions**. Interventions that have been scientifically researched and reviewed in peer-reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model (EBM). ~~(3-17-22)~~( )

**08. Evidence-Informed Interventions**. Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual, who are not certified or credentialed in an~~ evidence-based model~~ EBM. ~~(3-17-22)~~( )

**09. Fidelity**. The consistent and accurate implementation of children's habilitation services accordance with the modality, manual, protocol, or model. ( )

**~~09~~10. Human Services Field**. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include, but are not limited to, sociology, special education, counseling,~~ and~~ psychology, or other areas of academic study as referenced in the Medicaid Provider Handbook. ~~(3-17-22)~~( )

**1~~0~~1. Recreational Services**. Activities~~ or services~~ that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, and special day parties~~ (birthday, Christmas, etc.)~~. ~~(3-17-22)~~( )

**1~~1~~2. Restrictive Intervention**. Any intervention that is used to restrict the rights or freedom of movement of a person and includes chemical restraint, mechanical restraint, physical restraint, and seclusion. (3-17-22)

~~**12. Treatment Fidelity**. The consistent and accurate implementation of children's habilitation services~~

~~accordance with the modality, manual, protocol or model.~~ ~~(3-17-22)~~

**13. Vocational Services**. Services ~~or programs that are~~ directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the participant would be able to participate in a sheltered workshop or ~~in the~~ general workforce within one (1) year. ~~(3-17-22)~~( )

**572. CHIS: ELIGIBILITY REQUIREMENTS.**

~~**01. Medicaid Eligibility**. Participants must be eligible for Medicaid and the service for which the CHIS provider is seeking reimbursement.~~ ~~(3-17-22)~~

**0~~2~~1. Age of Participants**. ~~CHIS are available to participants from b~~Birth through the month of their twenty-first birthday. ~~(3-17-22)~~( )

**0~~3~~2. Eligibility Determination**. Participants ~~eligible to receive CHIS~~ must have a demonstrated functional need or a combination of functional and behavioral needs that require intervention services; or requires intervention to correct or ameliorate their condition ~~in accordance with~~ under Section 880 of these rules. A functional or behavioral need is determined by the Department approved screening tool when a deficit is identified in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, or maladaptive behavior. A deficit is defined as one-point-five (1.5) or more standard deviations below the mean for functional areas or above the mean for maladaptive behavior. ~~(3-17-22)~~( )

**573. CHIS: COVERAGE AND LIMITATIONS.**

~~**01. Excluded for Medicaid Payment**.~~ ~~(7-1-24)~~

~~i. Vocational services;~~ ~~(3-17-22)~~

~~ii. Educational services; and~~ ~~(3-17-22)~~

~~iii. Recreational services.~~ ~~(3-17-22)~~

**0~~2~~1. Service Delivery**. ~~The CHIS allowed under the Medicaid State Plan authority include evaluations, diagnostic and therapeutic treatment services provided on an outpatient basis. These services help improve individualized functional skills, develop replacement behaviors, and promote self-sufficiency of the participant.~~ CHIS may be delivered in the community, the participant's home, or in a DDA ~~under the requirements of these rules~~. Duplication of services is not reimbursable. ~~(7-1-24)~~( )

**0~~3~~2. Required Recommendation**. CHIS must be recommended by a ~~physician or other licensed practitioner of the healing arts~~ provider within their scope of practice~~, under state law~~. ~~(3-17-22)~~( )

**a.** ~~The~~ CHIS provider~~s may~~ cannot seek reimbursement for services provided more than thirty (30) calendar days prior to the signed and dated recommendation. ~~(3-17-22)~~( )

**b.** The recommendation is only required to be completed once and must be received prior to submitting the initial prior authorization request. If the participant has not accessed CHIS for more than three hundred sixty-five (365) calendar days~~, then~~ a new recommendation ~~must be received~~ is required. ~~(7-1-24)~~( )

**0~~4~~3. Required Screening**. Needs are determined through the current version of the ~~Vineland Adaptive Behavior Scales or other~~ Department-approved screening tools ~~that are conducted by the family's chosen CHIS provider, and the Department, and are administered under the protocol of the tool~~. The ~~screening~~ tool is only required to be completed once and must be completed prior to submitting the initial prior authorization request. The following apply: ~~(7-1-24)~~( )

~~**a.** If a screening tool has been completed by the Department a new screening is not required.~~ ~~(7-1-24)~~

~~b. If the participant has been determined eligible by the Department, a new screening tool is not required.~~ ~~(3-17-22)~~

~~c~~a. If the participant has not accessed CHIS for more than three hundred sixty-five (365) calendar days, a new screening must be completed. (3-17-22)

~~d. The screening cannot be billed more than once unless an additional screening is required under guidelines as outlined in the Medicaid Provider Handbook.~~ ~~(7-1-24)~~

0~~5~~4. **Services**. All CHIS recommended on a participant's assessment and clinical treatment plan (ACTP) must be prior authorized by the Department. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants. As the number and needs of the participants increase, the participant ratio in the group must be adjusted from three (3) to two (2). Group services will only be reimbursed when the participant's objectives relate to benefiting from group interaction. The following CHIS ~~are available for eligible participants and~~ are reimbursable services when provided under these rules: ~~(7-1-24)~~( )

**a.** Habilitative Skill Building. This direct intervention service includes techniques used to develop, improve, and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a participant. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Services include individual or group interventions. (3-17-22)

~~i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants.~~ ~~(7-1-24)~~

~~ii. As the number and needs of the participants increase, the participant ratio in the group must be adjusted from three (3) to two (2).~~ ~~(7-1-24)~~

~~iii. Group services will only be reimbursed when the participant's objectives relate to benefiting from group interaction.~~ ~~(3-17-22)~~

**b.** Behavioral Intervention. This service utilizes direct intervention techniques used to produce positive meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies while also addressing any identified habilitative skill building needs~~. These services are provided to participants who exhibit interfering behaviors that impact the independence or abilities of the participant, such as impaired social skills and communication~~ or destructive behaviors. Intervention services may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the ~~eligible~~ participant~~. Evidence-based or evidence-informed practices are used to promote positive behaviors and learning while reducing interfering behaviors and developing behavioral self-regulation.~~ Services include individual or group interventions. ~~(3-17-22)~~( )

~~i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants.~~ ~~(7-1-24)~~

~~ii. As the number and severity of the participants with behavioral issues increase, the participant ratio in the group must be adjusted from three (3) to two (2).~~ ~~(7-1-24)~~

~~iii. Group services should only be delivered when the participant's objectives relate to benefiting from group interaction.~~ ~~(3-17-22)~~

**c.** Interdisciplinary Training. This is a companion service to behavioral intervention and habilitative skill building and is used to assist with implementing a participant's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the participant's needs. This service is to be utilized for collaboration, with the participant present, during the provision of services between the intervention specialist or professional and a ~~Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, behavioral or mental health professional~~

provider. ~~(3-17-22)~~( )

**d.** Crisis Intervention. This service ~~may~~ includes providing training to staff directly involved with the participant, delivering intervention directly with the eligible participant, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. Crisis intervention is provided in the home or community on a short-term basis ~~typically~~ not to exceed thirty (30) days. Positive behavior interventions must be used prior to, and in conjunction with, the implementation of any restrictive intervention. Crisis intervention is available for participants who have an unanticipated event, circumstance, or life situation that places a participant at risk of at least one (1) of the following: ~~(3-17-22)~~( )

i. Hospitalization; (3-17-22)

ii. Out-of-home placement; (7-1-24)

iii. Incarceration; or (3-17-22)

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. (3-17-22)

**e.** Assessment and Clinical Treatment Plan (ACTP). The ACTP is a comprehensive assessment that guides the formation of the implementation plan(s) that include developmentally appropriate objectives and strategies related to identified needs. ~~The qualified provider conducts an assessment to evaluate the participant's strengths, needs, and functional abilities across environments. This process guides the development of intervention strategies and recommendations for services related to the participant's identified needs. The ACTP must be monitored and adjusted to reflect the current needs of the participant. The CHIS provider must document that a copy of the ACTP was offered to the participant's parent or legal guardian.~~ The ACTP must ~~be completed on a Department-approved form as referenced in the Medicaid Provider Handbook and~~ contain the following ~~minimum standards~~:
~~(7-1-24)~~( )

i. Clinical interview~~(s)~~ must be completed with the parent or legal guardian; ~~(3-17-22)~~( )

ii. ~~Administer or obtain an o~~Objective and validated comprehensive skills or developmental assessment ~~approved by the Department~~. The most current ~~version of the~~ assessment must be used and ~~the assessment must have been completed~~ be from within the last ~~three hundred and sixty-five (365) days~~ year; ~~(3-17-22)~~( )

iii. Review of assessments, reports, and relevant history; (3-17-22)

iv. Observations in at least one (1) environment; (3-17-22)

v. ~~A reinforcement inventory or preference assessment~~Clinical summary and recommendations;
~~(3-17-22)~~( )

vi. A transition plan; and (3-17-22)

vii. Be signed by the individual completing the assessment and the parent or legal guardian. (3-17-22)

**574. CHIS: PROCEDURAL REQUIREMENTS.**
All CHIS identified on a participant's ACTP must be prior authorized by the Department, or its contractor, and must be maintained in each participant's file. ~~The~~ CHIS providers ~~is~~ are responsible for documenting and submitting the ~~participant's~~ ACTP to obtain prior authorization before delivering any CHIS. ~~(3-17-22)~~( )

**01. Prior Authorization Request**. The request must be submitted to the Department, or its contractor, who will review and approve or deny prior authorization requests and notify the provider and the parent or legal guardian of the decision. ~~Prior authorization is intended to help ensure the provision of medically necessary services and will be approved according to the timeframes established by the Department and as described in the Medicaid Provider Handbook.~~ ~~(3-17-22)~~( )

**a.** Once the initial request for prior authorization is submitted, CHIS may be delivered for a maximum

of twenty-four (24) total hours for up to thirty (30) calendar days or until the prior authorization is approved. Initial prior authorization requests must include: (3-17-22)

i. A recommendation from a ~~physician or other practitioner of the healing arts~~ provider; and ~~(3-17-22)~~( )

ii. The ACTP~~; and~~. ~~(3-17-22)~~( )

~~iii. Implementation plan(s).~~ ~~(3-17-22)~~

**b.** Ongoing prior authorization requests must include: (3-17-22)

i. A list of the participant's goals and objectives; ~~(3-17-22)~~( )

~~ii. Graphs showing change lines;~~ ~~(3-17-22)~~

ii~~i~~. A ~~brief analysis~~ written summary of data regarding progress or lack of progress to meeting each objective including graphs showing change lines; ~~(3-17-22)~~( )

iv~~ii~~. A list of all CHIS hours being requested and the qualification of the individual(s) who will provide them; and ~~(3-17-22)~~( )

~~v. Request for the annual ACTP, if applicable;~~ ~~(3-17-22)~~

~~vi. New implementation plans, if applicable;~~ ~~(3-17-22)~~

iv~~ii~~. An updated annual ACTP, if applicable~~; and~~. ~~(3-17-22)~~( )

~~viii. An annual written summary with an analysis of data regarding the participant's progress or lack of progress, justification for any changes made to implementation of programming for new objectives, discontinuation of objectives, if applicable, and a summary of parent(s) or caregiver(s) response to teaching of coordinated methods.~~ ~~(3-17-22)~~

**c.** The following services may be requested retroactively: (3-17-22)

i. The initial ATCP; (3-17-22)

ii. The screening tool; and (3-17-22)

iii. Crisis intervention within seventy-two (72) hours of the service initiation. (3-17-22)

**02. Implementation Plan(s)**. An implementation plan will provide details on how intervention will be implemented and must be completed and signed by a qualified provider. All implementation plan objectives must be related to a need identified on the ATCP. The provider must document that a copy of the participant's implementation plan(s) was offered to the participant's parent or legal guardian. ~~The implementation plan(s) must include the following requirements:~~ ~~(3-17-22)~~

~~**a.** Participant's name;~~ ~~(3-17-22)~~

~~**b.** Measurable, behaviorally stated objectives including criteria for successful achievement, and a baseline statement;~~ ~~(3-17-22)~~

~~**c.** Location(s) where objectives will be implemented;~~ ~~(3-17-22)~~

~~**d.** Precursor behaviors for participants receiving behavioral intervention;~~ ~~(3-17-22)~~

~~**e.** Description of the treatment modality to be utilized;~~ ~~(3-17-22)~~

~~f. Discriminative stimulus or direction;~~ ~~(3-17-22)~~

~~g. Targets, steps, task analysis or prompt level;~~ ~~(3-17-22)~~

~~h. Correction procedure;~~ ~~(3-17-22)~~

~~i. Data collection;~~ ~~(3-17-22)~~

~~j. Reinforcement, including type and frequency;~~ ~~(3-17-22)~~

~~k. A plan for generalization and a plan for family training;~~ ~~(3-17-22)~~

~~l. A behavior response plan for participants receiving behavioral intervention;~~ ~~(3-17-22)~~

~~m.~~ Any restrictive or aversive interventions being implemented must be reviewed and approved by a licensed or certified individual working within the scope of their practice~~; and~~. ~~(3-17-22)~~( )

~~n. A signature of the qualified provider who completed the document(s), date signed, and credential.~~ ~~(3-17-22)~~

**03. Requirements for Program Documentation**. Providers must maintain records for each participant served. ~~Failure to maintain such documentation may result in the recoupment of funds paid for undocumented services.~~ Undocumented services are subject to recoupment. For each participant, the following program documentation is required for each visit made or service provided to the participant~~, including at a minimum the following information~~: ~~(3-17-22)~~( )

**a.** Date, time, and duration; (3-17-22)

**b.** Summary of session or service provided, and if interdisciplinary training is provided, ~~documentation must include~~ who the service was delivered to and the content covered; ~~(3-17-22)~~( )

**c.** Data documentation that corresponds to the implementation plans for habilitative skill building or behavioral intervention; (3-17-22)

**d.** Location of service delivery; and (3-17-22)

**e.** Signature of the individual providing the service, date signed, and credential. (3-17-22)

**04. Supervision**. Supervision includes both face-to-face observation and direction to the staff regarding developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for a participant. ~~Supervision is provided to ensure staff demonstrate the necessary skills to correctly provide the services as defined in this rule and informs of any modification needed to the methods implemented to support the accomplishment of outcomes identified in the ACTP.~~ Supervision must be provided ~~in accordance with~~ under the requirements of the ~~evidence-based model~~ EBM or ~~in accordance with~~ each ~~individual~~ provider qualification. Intervention specialists providing services to children birth to three (3) years old must be supervised by a~~n intervention~~ specialist or ~~intervention~~ professional who also meets the birth to three (3) years old requirements. ~~(3-17-22)~~( )

**575. CHIS: PROVIDER QUALIFICATIONS AND DUTIES.**
CHIS are delivered by individuals who meet or exceed~~s~~ one (1) of the qualifying criteria below in Subsections 575.01 through 575.07 of this rule, and are employed by a certified DDA, or who meet the criteria ~~as defined~~ in Subsection 575.08 of this rule and is enrolled as an independent CHIS provider. ~~All providers of CHIS must meet the continuing training requirements in Subsection 575.09 of this rule.~~ ~~(3-17-22)~~( )

**01. Crisis Intervention Technician**. ~~A c~~Crisis intervention technician is an employee of a DDA that can deliver crisis intervention directly with the eligible participant and ~~must~~ meet~~s~~ the qualifications of a community-

based supports staff ~~as defined in~~ under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 526. The technician must be under the supervision of a specialist or professional who is observing and reviewing the direct crisis intervention services performed. Supervision must occur monthly~~, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the crisis intervention service~~. ~~(3-17-22)~~( )

**02. Intervention Technician**. ~~An i~~Intervention technicians can deliver habilitative skill building, behavioral intervention, and crisis intervention. This is a provisional position ~~intended~~ to allow an individual to gain the necessary degree, competency, or experience needed to qualify as an intervention specialist or higher. ~~An intervention~~ The technician must be an employee of a DDA and be under the supervision of a specialist or professional who is observing and reviewing the ~~direct~~ services performed ~~by the intervention technician~~. Supervision must occur monthly~~, or more often as necessary, to ensure the intervention technician demonstrates the necessary skills to correctly provide the intervention~~. Provisional status is limited to a single eighteen (18) successive month period. ~~The qualifications for this type of p~~Providers ~~can be met by one (1) of the following~~ are qualified that: ~~(3-17-22)~~( )

**a.** ~~An individual who is currently enrolled and is within twenty-four (24) semester credits, or equivalent, to complete their bachelor's degree or higher from an accredited institution in a human services field and~~Are working towards meeting the experience and competency requirements~~; or~~. ~~(3-17-22)~~( )

~~**b.** An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field and working towards meeting the experience and competency requirements. (3-17-22)~~

**03. Intervention Specialist**. ~~An i~~Intervention specialists can deliver all CHIS, complete assessments and implementation plans, and must be under the supervision of a specialist or professional who is observing and reviewing the ~~direct CHIS~~ services performed. Supervision must occur monthly~~, or more often as necessary, to ensure the intervention specialist demonstrates the necessary skills to correctly provide the service~~. A~~n intervention~~ specialist who will complete assessments or supervise an individual completing assessments must have a minimum of ten (10) hours of documented training and five (5) hours of supervised experience in completing comprehensive assessments and implementation plans for participants with functional or behavioral needs. ~~The qualifications for this type of p~~Providers ~~can be met by one (1) of~~ must meet the following qualifications: ~~(3-17-22)~~( )

**a.** ~~An individual who h~~Holds~~s~~ a Habilitative Intervention Certificate of Completion in Idaho with an expiration date of July 1, 2019 or later~~;~~. These providers will be allowed to continue providing services as an intervention specialist as long as there is not a gap of more than three (3) successive years of employment as an intervention specialist; or ~~(3-17-22)~~( )

**b.** ~~An individual who h~~Holds~~s~~ a bachelor's degree from an accredited institution in a human services field or ~~a has~~ a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field; and ~~(3-17-22)~~( )

i. Can demonstrate ~~one thousand~~ two hundred forty (~~1,0~~240) hours of supervised experience working with participants birth to twenty-one (21) years of age who demonstrate functional or behavioral needs; and ~~(3-17-22)~~( )

ii. Meets the competency requirements by completing one (1) of the following: (3-17-22)

(1) A Department-approved competency checklist ~~referenced in the Medicaid Provider Handbook~~; or ~~(3-17-22)~~( )

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training~~; or~~. ~~(3-17-22)~~( )

~~(3) Other Department-approved competencies as defined in the Medicaid Provider Handbook. (3-17-22)~~

**c.** ~~An i~~Individuals who provide~~s~~ services to children birth to three (3) years of age must also

demonstrate a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. ~~Experience must be through paid employment or university internship or practicum experience and may be documented within the supervised experience listed in Subsection 575.02.b.i. of this rule, and have one (1) of the following:~~ ~~(3-17-22)~~( )

i. An elementary education certificate or special education certificate with an endorsement in early childhood special education; or (3-17-22)

ii. A blended Early Childhood or Early Childhood Special Education (EC or ECSE) certificate; or (3-17-22)

iii. ~~A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, counseling, or nursing.~~ This individual must have a minimum of twenty-four (24) semester credits from an accredited college or university, which can be within their bachelor's or master's degree coursework, or can be in addition to the degree coursework. Courses must cover the following ~~as defined in the Medicaid Provider Handbook~~: ~~(3-17-22)~~( )

(1) Promotion of development and learning for children from birth to five (5) years of age. (3-17-22)

(2) Assessment and observation methods that are developmentally appropriate assessment of young children with developmental delays or disabilities; (3-17-22)

(3) Building family and community relationships to support early interventions; (3-17-22)

(4) Development of appropriate curriculum for young children; (3-17-22)

(5) Implementation of instructional and developmentally effective approaches for early learning, including strategies for children and their families; and (3-17-22)

(6) Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (3-17-22)

**04. Intervention Professional**. ~~An i~~Intervention professionals can deliver all CHIS and complete assessments and implementation plans. ~~Intervention professionals~~ Providers must meet the following ~~minimum~~ qualifications: ~~(3-17-22)~~( )

**a.** Hold a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, psychology, education, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and (3-17-22)

**b.** Have one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training. (3-17-22)

**c.** ~~An i~~Individuals who provide~~s~~ services to children birth to three (3) years of age must meet the requirements ~~defined in~~ under Subsection 575.03.c. of this rule. ~~(3-17-22)~~( )

**05. Evidence-Based Model (EBM) Intervention Paraprofessional**. ~~An~~ EBM intervention paraprofessionals can deliver habilitative skill building, crisis intervention, and behavioral intervention, and must be supervised in accordance with the ~~evidence-based model~~ EBM. ~~The qualifications for this type of p~~Providers ~~are:~~ must ~~(3-17-22)~~

~~**a.** An individual who holds a high school diploma or general equivalency diploma; and (3-17-22)~~

**b.** Hholds a para-level certification or credential in an evidence based model EBM approved by the Department. (3-17-22)( )

**06. Evidence-Based Model (EBM) Intervention Specialist**. An EBM intervention specialists can deliver all CHIS and complete assessments and implementation plans. This individual Specialists must be supervised in accordance with according to the evidenced based model EBM and may also supervise the evidence based EBM paraprofessionals working within the same evidence based modelEBM. The qualifications for this type of pProviders are: must (3-17-22)

**a.** An individual who holds a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and (3-17-22)

**b.** Hholds a bachelor-level certification or credential in an evidence based model EBM approved by the Department. (3-17-22)( )

**c.** An individual who provides services to children birth to three (3) years of age must also have a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self help), and social emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. Experience must be through paid employment or university activities. (3-17-22)

**07. Evidence-Based Model (EBM) Intervention Professional**. An EBM intervention professionals can deliver all CHIS and complete assessments and implementation plans. The qualifications for this type of pProviders are: must (3-17-22)

**a.** An individual who holds a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and (3-17-22)

**b.** Hholds a masters-level degree and certification or credential in an evidence based model EBM approved by the Department. (3-17-22)( )

**c.** An individual who provides services to children birth to three (3) years of age must meet the requirements defined in Subsection 575.06.c. of this rule. (3-17-22)

**08. Independent CHIS Provider**. This type of Independent CHIS pProviders can deliver all types of CHIS, complete assessments and implementation plans in accordance with according to their provider qualification as defined in under Subsections 575.03, 575.04, 575.06, and 575.07 of these rules. Documentation of supervision must be maintained in accordance with the Department's record retention requirements. The following must be met: (3-17-22)( )

**a.** Obtain an independent Medicaid provider agreement through the Department and maintain in good standing; (3-17-22)

**b.** Be certified in CPR and first aid prior to delivering services and maintain current certification thereafter; (3-17-22)

**c.** Compete a criminal history and background check, including clearance in accordance with under IDAPA 16.05.06, "Criminal History and Background Checks"; (3-17-22)( )

**d.** Follow all applicable requirements in Sections 570 through 577 of these rules; and (3-17-22)

**e.** Not receive supervision from an individual that they are directly supervising. (3-17-22)

**09. Continuing Training Requirements**. Each individual providing CHIS providers must complete a minimum of twelve (12) hours of training each calendar year, including one (1) hour of ethics and six (6) hours of behavior methodology or evidence-based intervention. The following criteria applies: (3-17-22)

~~a. Training must be relevant to the services being delivered.~~ ~~(3-17-22)~~

~~b.~~ Continuing training requirements for new independent providers or employees of a DDA who have not provided CHIS for a full calendar year, may be prorated ~~as defined in the Medicaid Provider Handbook~~. ~~(3-17-22)~~( )

~~c. Individuals who have not completed the required training during the previous calendar year, may not provide services in the current calendar year until the required number of training hours have been completed.~~ ~~(3-17-22)~~

~~d. Training hours may not be earned in the current calendar year to be applied to a future calendar year.~~ ~~(3-17-22)~~

~~e. Training topics can be repeated but the content of the continuing training must be different each calendar year; and~~ ~~(3-17-22)~~

**576. CHIS: PROVIDER REIMBURSEMENT.**

**01. Reimbursement**. The CHIS in Sections 570 through 577 of these rules are reimbursed as defined in IDAPA 16.03.10, Medicaid Enhanced Plan Benefits," Section 038. (3-17-22)

~~**02. Claim Forms**. Provider claims for payment must be submitted on claim forms provided or approved by the Department. General billing instructions will be provided by the Department.~~ ~~(3-17-22)~~

0~~3~~2. **Rates**. The reimbursement rates calculated for CHIS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location. (3-17-22)

**577. CHIS: QUALITY ASSURANCE.**
The Department will establish performance criteria to meet federal assurances that measure the outcomes and effectiveness of ~~the~~ CHIS. ~~Quality assurance activities will include the observation of service delivery with participants, face-to-face visits to review program protocol, and review of participant records maintained by the provider.~~ All CHIS providers must grant the Department immediate access to all information requested to review compliance with these rules. ~~(3-17-22)~~( )

**01. Quality Assurance**. Quality assurance consists of reviews to assure compliance with the Department's rules and regulations for CHIS. ~~The Department will visit providers to monitor outcomes, assure treatment fidelity, and assure health and safety. The Department will also gather information to assess family and participant satisfaction with services. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the participant.~~ If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process will occur. ~~(3-17-22)~~( )

**02. Quality Improvement**. Quality improvement ~~consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement~~ activities may include any of the following: ~~(3-17-22)~~( )

**a.** Consultation; (3-17-22)

**b.** Technical assistance and recommendations; or (3-17-22)

**c.** A Corrective Action. ~~(3-17-22)~~

~~**03. Corrective Action**.~~ Corrective action is a formal process used by the Department to address significant, ongoing, or unresolved deficient practices identified during the review process ~~as provided in Section 205.03 of~~ under these rules. Corrective action~~, as outlined in the Department's corrective action plan process,~~ includes: ~~(3-17-22)~~( )

~~a~~i. Issuance of a corrective action plan; (3-17-22)

~~b~~ii. Referral to Medicaid Program Integrity Unit; or (3-17-22)

~~c~~iii. Action against a provider agreement. (3-17-22)

**578. -- 579. (RESERVED)**

**~~SUB AREA: PREVENTION SERVICES~~**
**~~(Sections 580-649)~~**

**580. CHILD WELLNESS SERVICES: DEFINITIONS.**

**01. Interperiodic Medical Screens**. ~~Interperiodic medical screens are s~~Screens that are done at intervals other than those identified in the American Academy of Pediatrics periodicity schedule. ~~(3-17-22)~~( )

**02. Periodic Medical Screens**. ~~Interperiodic medical screens are s~~Screens done at intervals identified in the American Academy of Pediatrics periodicity schedule. ~~(3-17-22)~~( )

**581. CHILD WELLNESS SERVICES: PARTICIPANT ELIGIBILITY.**
Child Wellness Services are available to all participants ~~up to, and including,~~ through the month of their twenty-first (21st) birthday. ~~(3-17-22)~~( )

**582. CHILD WELLNESS SERVICES: COVERAGE AND LIMITATIONS.**

**01. Periodic Medical Screens**. Periodic medical screens are ~~to be~~ completed according to the American Academy of Pediatrics periodicity schedule including blood lead tests at age twelve (12) months and twenty-four (24) months. The medical screen must include a blood lead test when the participant is age two (2) through age twenty-one (21) and has not been previously tested. ~~(3-17-22)~~( )

**02. Interperiodic Screens**. Interperiodic screens will be performed when there are indications that it is medically necessary to determine whether a child has a physical or mental illness or condition that may require further assessment, diagnosis, or treatment. Interperiodic screens may occur in children who have already been diagnosed with an illness or condition, and there is indication that the illness or condition may have become more severe or changed sufficiently, so that the further examination is medically necessary (3-17-22)

**03. Developmental Screens**. Developmental screening is considered part of every routine initial and periodic examination. If the screening identifies a developmental problem, ~~then~~ a developmental assessment will be ordered by the ~~physician, certified nurse midwife, PA, or NP and be conducted by qualified professionals~~ provider. ~~(3-17-22)~~( )

**583. (RESERVED)**

**584. CHILD WELLNESS SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

**~~01. Interperiodic Medical Screens.~~** Interperiodic and periodic medical screens must be performed by a physician, NP, or PA. ~~(3-17-22)~~( )

**~~02. Periodic Medical Screens~~**. ~~Periodic medical screens can be performed by a physician, certified nurse midwife, PA, or NP.~~ ~~(3-17-22)~~

**585. EARLY INTERVENTION SERVICES.**
Early Intervention Services for infants and toddlers enrolled in ~~Idaho~~ Medicaid are provided by the Idaho Infant Toddler Program (ITP). Early Intervention Services must be provided ~~in accordance with~~ under the Individuals with Disabilities Education Act (IDEA), Part C, and all Medicaid regulations. ~~(3-17-22)~~( )

**586. EARLY INTERVENTION SERVICES: PROGRAM REQUIREMENTS.**
~~Idaho~~ Medicaid and the ITP coordinate the delivery of Early Intervention Services through an intra-agency agreement published on the Department's website. Program requirements include: ~~(3-17-22)~~( )

**01. Physician Recommendation**. The ITP can bill for health-related services provided to eligible children when the services are documented as medically necessary and provided under the recommendation of a ~~physician, certified nurse midwife, PA, or NP~~ provider. ITP may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated physician recommendation. The recommendation is valid for up to three hundred sixty-five (365) days. ~~(3-17-22)~~( )

**02. Individualized Family Service Plan (IFSP)**. The ITP may bill for Medicaid services covered by a current IFSP. The plan must be developed by a multi-disciplinary team and be based on the results of assessment(s). (3-17-22)

**03. Qualified Staff**. ITP staff qualifications must meet IDEA Part C requirements, and all Medicaid regulations as specified in the intra-agency agreement. (3-17-22)

**587. EARLY INTERVENTION SERVICES: PROVIDER REIMBURSEMENT.**
Medicaid will reimburse the I~~nfant T~~~~oddler P~~~~rogram~~ for covered ~~medically necessary~~ services. ~~(3-17-22)~~( )

**01. Fee Schedule**. Reimbursement for Early Intervention Services will be based on the ~~Idaho~~ Medicaid Fee Schedule for Early Intervention. ~~(3-17-22)~~( )

~~**02. Payment Review**. Reimbursement is subject to pre-payment and post-payment review in accordance with Section 56-209h(3), Idaho Code, and recoupment in accordance with IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct."~~ ~~(3-17-22)~~

**588. -- ~~589.~~ ~~(RESERVED)~~**

**~~590. ADULT PHYSICALS.~~**
~~Adult preventive physical examinations are limited to one (1) per year.~~ ~~(3-17-22)~~

**~~591. -- 601. (RESERVED)~~**

**~~602. SCREENING MAMMOGRAPHIES: COVERAGE AND LIMITATIONS.~~**

~~**01. Screening Mammographies**. Align with the "A" and "B" recommendations of the United States Preventative Services Taskforce.~~ ~~(7-1-24)~~

~~**02. Diagnostic Mammographies**. Are not subject to the limitations of screening mammographies. Diagnostic mammographies are covered when a physician or licensed practitioner of the healing arts orders the procedure for a participant of any age.~~ ~~(7-1-24)~~

**~~603. (RESERVED)~~**

**~~604. SCREENING MAMMOGRAPHIES: PROVIDER QUALIFICATIONS AND DUTIES.~~**
~~Idaho Medicaid will cover screening or diagnostic mammographies performed with mammography equipment by staff considered certifiable or certified by the Bureau of Laboratories or the equivalent for providers in other states.~~
~~(3-17-22)~~

**~~605. --~~ 609. (RESERVED)**

**610. CLINIC SERVICES: DIAGNOSTIC SCREENING CLINICS.**
The Department will reimburse medical social service visits to clinics that coordinate the treatment between ~~physicians and other medical professionals~~ providers for participants which are diagnosed with cerebral palsy, myelomeningitis or other neurological diseases and injuries with comparable outcomes. ~~(3-17-22)~~( )

**01. Multidisciplinary Assessments and Consultations**. The clinic must perform on site multidisciplinary assessments and consultations with each participant and responsible parent or guardian. Diagnostic and consultive services related to the diagnosis and treatment of the participant will be provided by board certified physician specialists in physical medicine, neurology and orthopedics. (3-17-22)

**02. Billings**. No more than five (5) hours of medical social services per participant may be billed by the specialty clinic each state fiscal year for which the medical social worker monitors and arranges participant treatments and provides medical information to providers who have agreed to coordinate the care of their participant. (3-17-22)

**03. Services Performed**. Services performed or arranged by the clinic will be subject to the amount, scope, and duration for each service as set forth ~~elsewhere~~ in this chapter. ~~(3-17-22)~~( )

**04. ~~The Clinic~~Provider Qualifications**. The clinic is established as a separate and distinct entity from the hospital~~, physician~~ or other provider practices. ~~(3-17-22)~~( )

**611. -- 617. (RESERVED)**

**618. HEALTH QUESTIONNAIRE.**
The Health Questionnaire assesses the general health status and health behaviors of a participant. The information collected is used to provide customized health education to the participant. The Health Questionnaire is administered at initial program entry and at periodic intervals thereafter. Participant responses to the issues addressed in the Health Questionnaire may identify a participant's interest in the Preventive Health Assistance benefits described ~~in Section 620 of~~ under these rules. ~~(3-17-22)~~( )

**619. (RESERVED)**

**620. PREVENTIVE HEALTH ASSISTANCE (PHA): DEFINITIONS.**

**01. Behavioral PHA**. Benefits available to a participant specifically to support weight control. (3-17-22)

**02. Benefit Year**. A benefit year is twelve (12) continuous months. A participant's PHA benefit year begins the date their initial points are earned. (3-17-22)

**03. PHA Benefit**. A mechanism to reward healthy behaviors and good health choices of a participant eligible for preventive health assistance. (3-17-22)

**04. Wellness PHA**. Benefits available to a participant to support wellness. (3-17-22)

**621. PREVENTIVE HEALTH ASSISTANCE (PHA): PARTICIPANT ELIGIBILITY.**

**01. Behavioral PHA**. The participant must have a Health Questionnaire on file with the Department. The Health Questionnaire is used to determine eligibility for a Behavioral PHA. The participant must indicate on the Health Questionnaire that they want to change a behavior related to weight management. The participant must meet one (1) of the following criteria: (3-17-22)

**a.** For an adult, a body mass index (BMI) of thirty (30) or higher or eighteen and one-half (18 1/2) or lower. (3-17-22)

**b.** For a child, a body mass index (BMI) that falls in either the overweight or the underweight category as calculated using the Centers for Disease Control (CDC) Child and Teen BMI Calculator. (3-17-22)

**02. Wellness PHA**. A participant who is required to pay premiums to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children," is eligible for Wellness PHA. (3-17-22)

**622. PREVENTIVE HEALTH ASSISTANCE (PHA): COVERAGE AND LIMITATIONS.**

**01. Point System**. The PHA benefit uses a point system to track points earned and used by a participant. Each point equals one (1) dollar. (3-17-22)

**a.** Maximum Benefit Points. (3-17-22)

i. The maximum number of points that can be earned for a Behavioral PHA is two hundred (200) points each benefit year. (3-17-22)

ii. The maximum number of points that can be earned for a Wellness PHA benefit is one hundred twenty (120) points each benefit year. (3-17-22)

**b.** Points expire and are removed from a participant's PHA benefit at the end of the participant's benefit year. (3-17-22)

**c.** Points earned for a specific participant's PHA benefit cannot be transferred to or combined with points in another participant's PHA benefit. (3-17-22)

**02. Weight Management Program**. Each program must provide weight management services and must include ~~a curriculum that includes~~ at least one (1) of the three (3) following areas: ~~(3-17-22)~~( )

**a.** Physical fitness; (3-17-22)

**b.** Balanced diet; or (3-17-22)

**c.** Personal health education. (3-17-22)

**03. Participant Request for Coverage**. A participant can request that a previously unidentified service be covered. The Department will approve a request if the product or service meets the requirements described in this rule and the vendor meets the requirements in Section 624 of these rules. (3-17-22)

**04. Premiums**. ~~(3-17-22)~~

~~**a.** Wellness PHA benefit points must be used to offset a participant's premiums.~~ ~~(3-17-22)~~

~~**b.** Only premiums that must be paid~~ to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children," ~~can be offset by PHA benefit points~~ if applicable. ~~(3-17-22)~~( )

**05. Hearing Rights**. A participant does not have hearing rights for issues arising between the participant and a chosen vendor. (3-17-22)

## 623. PREVENTIVE HEALTH ASSISTANCE (PHA): PROCEDURAL REQUIREMENTS.

**01. Behavioral PHA**. (3-17-22)

**a.** A PHA benefit will be established for each participant who meets the eligibility criteria for Behavioral PHA. A participant must complete a PHA Benefit Agreement Form prior to earning any points. (3-17-22)

**b.** Each participant who chooses to enroll in weight management must participate in a ~~physician~~ provider ~~-~~approved or monitored weight management program. ~~(3-17-22)~~( )

**c.** An initial one hundred (100) points are earned when the agreement form is received by the Department and the benefit is established. (3-17-22)

**d.** An additional one hundred (100) points can be earned by a participant who completes their program or reaches a chosen, defined goal. The vendor monitoring the participant's progress must verify that the program was completed or the goal was reached. (3-17-22)

**02. Wellness PHA**. (3-17-22)

**a.** A PHA benefit will be established for each participant who meets the eligibility criteria for Wellness PHA. Each participant must demonstrate that they have received recommended wellness visits and immunizations for their age prior to earning any points. (3-17-22)

**b.** Ten (10) points can be earned each month by a participant who receives all recommended wellness visits and immunizations for their age during the benefit year. (3-17-22)

**624. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER QUALIFICATIONS AND DUTIES.**

~~**01. Provider Agreement**. A behavioral PHA vendor must have a fully-executed provider agreement on file with the Department prior to providing services or products. (3-17-22)~~

0~~2~~1. **Prior Authorization**. A behavioral PHA vendor must request prior authorization from the Department for each product or service provided as a PHA benefit. (3-17-22)

0~~3~~2. **Medications and Pharmaceutical Supplies Vendor**. Each vendor must be a licensed pharmacy and must meet the criteria in Section 664 of these rules for prescription drug provider qualifications and duties. (3-17-22)

0~~4~~3. **Weight Management Program Vendor**. Each vendor must: (3-17-22)

**a.** Be established as a business that serves the general public; (3-17-22)

**b.** Meet all state, county, and local business licensing requirements: and (3-17-22)

**c.** Be able to provide a weight management program as described in Section 622 of these rules. (3-17-22)

**625. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER REIMBURSEMENT.**
With the prior agreement of the participant, the vendor may bill the participant for the difference between the Department's reimbursement and the vendor's usual and customary charge for Behavioral PHA products or services provided. (3-17-22)

**626. PREVENTIVE HEALTH ASSISTANCE (PHA): QUALITY ASSURANCE.**
The Department will establish performance measurements to evaluate the effectiveness of PHA. The performance measurements will be reviewed at least annually and adjusted as necessary to provide quality assurance. (3-17-22)

**627. -- 629. (RESERVED)**

**630. NUTRITIONAL SERVICES: DEFINITIONS.**
Nutritional services include intensive nutritional education, counseling, and monitoring. (3-17-22)

**631. (RESERVED)**

**632. NUTRITIONAL SERVICES: COVERAGE AND LIMITATIONS.**

~~**01. Order.**~~ The need for nutritional services must be discovered by screening services and ordered by the ~~physician or non-physician practitioner~~ provider. ~~(3-17-22)~~( )

~~**02. Medically Necessary**. The services must be medically necessary. (3-17-22)~~

~~**633. (RESERVED)**~~

~~**634. NUTRITIONAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~

~~Nutritional services must be performed by a registered dietician or an individual who has a baccalaureate degree from a U.S. regionally accredited college or university and has met the academic and professional requirements in dietetics as approved by the American Dietetic Association.~~ ~~(3-17-22)~~

~~**635. NUTRITIONAL SERVICES: PROVIDER REIMBURSEMENT.**~~
~~Payment for nutritional services is made at a rate established in accordance with Section 230 of these rules.~~ ~~(3-17-22)~~

**6363. -- 6~~39~~40. (RESERVED)**

~~**640. DIABETES EDUCATION AND TRAINING SERVICES: DEFINITIONS.**~~
~~A Certified Diabetes Educator is a state licensed health professional who is certified by the Certification Board for Diabetes Care and Education or the Association of Diabetes Care and Education Specialists (ADCES).~~ ~~(7-1-24)~~

**641. DIABETES EDUCATION AND TRAINING SERVICES: PARTICIPANT ELIGIBILITY.**
The medical necessity for diabetes education and training are evidenced by the following: (3-17-22)

**01. Participants with Diabetes**. Are eligible for a Diabetes Management Program when: (7-1-24)

**a.** A recent diagnosis of diabetes within ninety (90) days of enrollment with no history of prior diabetes education; or (7-1-24)

**b.** Uncontrolled diabetes manifested by two (2) or more fasting blood sugar of greater than one hundred forty milligrams per decaliter (140 mg/dL), hemoglobin A1c greater than eight percent (8%), or random blood sugar greater than one hundred eighty milligrams per decaliter (180 mg/dL), in addition to the manifestations; or (7-1-24)

**c.** Recent manifestations from poor diabetes control including neuropathy, retinopathy, recurrent hypoglycemia, repeated infections, or nonhealing wounds. (7-1-24)

**02. Participants with Pre-Diabetes**. Are eligible for the National Diabetes Prevention Program when they meet the program's guidance. (7-1-24)

**642. DIABETES EDUCATION AND TRAINING SERVICES: COVERAGE AND LIMITATIONS.**

**01. Concurrent Diagnosis**. Only training and education services that are reasonable and necessary will be covered. Covered professional and educational services will address each participant's medical needs through scheduled outpatient group or individual training or counseling concerning diet and nutrition, exercise, medications, home glucose monitoring, insulin administration, foot care, or the effects of other current illnesses and complications. (7-1-24)

**02. No Substitutions**. The ~~physician~~ provider may not use the formally structured program, or a Certified Diabetes Educator, as a substitute for basic diabetic care and instruction the ~~physician~~ provider must furnish to the participant, which includes the disease process and pathophysiology of diabetes mellitus, and dosage administration of oral hypoglycemic agents. ~~(3-17-22)~~( )

**03. Services Limited**. Diabetes education and training services will be limited to twenty-four (24) hours of group sessions and twelve (12) hours of individual counseling every five (5) calendar years. (3-17-22)

**643. DIABETES EDUCATION AND TRAINING SERVICES: PROCEDURAL REQUIREMENTS.**
To receive diabetes counseling, the participant must have a written order from the primary care provider who referred the participant to the program. (3-17-22)

**644. DIABETES EDUCATION AND TRAINING SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**
Outpatient diabetes education and training services will be covered under one (1) of the following conditions: (7-1-24)

**01. Diabetes Management Program**. The education and training services are provided through a diabetes management program recognized as meeting the program standards of the American Diabetes Association or Association of Diabetes Care and Education Specialists by a ~~certified diabetic educator~~ CDCES, dietitian, or pharmacist. ~~(7-1-24)~~( )

**02. The National Diabetes Prevention Program**. The provider meets the requirements for the program. (7-1-24)

~~**645. DIABETES EDUCATION AND TRAINING SERVICES: PROVIDER REIMBURSEMENT.**~~
~~Diabetes education and training services will be reimbursed according to the Department's established fee schedule in accordance with Section 230 of these rules.~~ ~~(3-17-22)~~

**646~~5~~. -- 649. (RESERVED)**

**SUB AREA: LABORATORY AND RADIOLOGY SERVICES**
**(Sections 650-659)**

**650. LABORATORY AND RADIOLOGY SERVICES: DEFINITIONS.**

**01. Independent Laboratory**. A laboratory ~~that is~~ not located in a ~~physician's~~ provider's office, and receives specimens from a source other than another laboratory. ~~A physician is not an independent laboratory.~~ ~~(3-17-22)~~( )

**02. Laboratory or Clinical Laboratory**. A facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of material derived from the human body ~~for the purpose of providing~~ to provide information for the diagnosis, prevention, or treatment of any disease, or the impairment or assessment of human health. ~~(3-17-22)~~( )

**03. Proficiency Testing**. Evaluation of a laboratory's ability to perform laboratory procedures within acceptable limits of accuracy through analysis of unknown specimens distributed at periodic intervals. (3-17-22)

**04. Quality-Control**. ~~A day to day a~~Analysis of reference materials to ensure reproducibility and accuracy of laboratory results, and ~~includes~~ an acceptable system to assure proper functioning of instruments, equipment, and reagents. ~~(3-17-22)~~( )

**05. Reference Laboratory**. A laboratory that only accepts specimens from other laboratories. (3-17-22)

**651. -- 652. (RESERVED)**

**653. LABORATORY AND RADIOLOGY SERVICES: COVERAGE AND LIMITATIONS.**

~~**01. Medical Necessity Criteria**. Services must meet the definition of Medical Necessity in Section 011 of these rules as detailed in the Idaho Medicaid Provider Handbook.~~ ~~(3-17-22)~~

~~**02. Prior Authorization of Services**. The Department may require prior authorization of any laboratory or radiology service as detailed in the Idaho Medicaid Provider Handbook.~~ ~~(3-17-22)~~

The following services are covered when they meet all requirements: ( )

**01. Laboratory Services**. ( )

**02. Radiology Services**. ( )

**654. LABORATORY AND RADIOLOGY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. Laboratory and Radiology Requirements**. Providers of laboratory and radiology services must

be eligible for Medicare certification for these services. (3-17-22)

**02. Use of Reference Laboratories**. Laboratories using reference laboratories must ensure that all requirements of ~~Sections 650 through 659 of~~ these rules are met by the reference laboratory. ~~(3-17-22)~~( )

**655. LABORATORY AND RADIOLOGY SERVICES: PROVIDER REIMBURSEMENT.**

**01. Provider of Service**. Payment for laboratory tests can only be made to the actual provider of that service~~. An exception to the preceding is made~~, except in the case of: ~~(3-17-22)~~( )

**a.** An independent laboratory that can bill for a reference laboratory; (3-17-22)

**b.** A transplant facility that can bill for histocompatibility testing; and (3-17-22)

**c.** Healthcare professionals acting within the licensure and scope of their practice to comply with IDAPA 16.02.12, "Newborn Screening." (3-17-22)

~~**02. Tests Performed by or Personally Supervised by a Physician**. The payment level for clinical diagnostic laboratory tests performed by or personally supervised by a physician will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be a rate established by the Department.~~ ~~(3-17-22)~~

~~**03. Tests Performed by an Independent Laboratory**. The payment level for clinical diagnostic laboratory tests performed by an independent laboratory will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department.~~ ~~(3-17-22)~~

~~**04. Tests Performed by a Hospital Laboratory**. The payment level for clinical diagnostic laboratory tests performed by a hospital laboratory for anyone who is not an inpatient will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department.~~ ~~(3-17-22)~~

0~~5~~2. **Specimen Collection Fee**. Collection fees for specimens drawn by venipuncture or catheterization are payable only to the ~~physician~~ provider or laboratory who draws the specimen. If done during an office visit on the same day the service is ordered, specimen collection ~~may be~~ is reimburs~~ed~~able even if prior authorization is not approved. ~~(3-17-22)~~( )

**656. LABORATORY AND RADIOLOGY SERVICES: QUALITY ASSURANCE.**
Laboratories, as a condition of payment, must maintain a quality-control program, including proficiency testing ~~consistent with federal requirements, as detailed in the Idaho Medicaid Provider Handbook~~ under 42 USC Section 263a. The laboratory must provide the results ~~of proficiency testing~~ to the Department ~~or their Quality Improvement Organization vendor~~ upon request. ~~(3-17-22)~~( )

**657. -- 659. (RESERVED)**

**SUB AREA: PRESCRIPTION DRUGS**
**(Sections 660-679)**

**660. ~~(RESERVED)~~PRESCRIPTION DRUGS: DEFINITIONS.**
Unit Dose: Drugs packaged in individual, sealed doses with tamper-evident packaging such as, but not limited to, single unit-of-use, blister packaging, unused injectable vials, and ampules. ( )

**661. PRESCRIPTION DRUGS: PARTICIPANT ELIGIBILITY.**

~~**01. Obtaining a Prescription Drug**. To obtain a prescription drug, a Medicaid participant or authorized agent must present the participant's Medicaid identification card to a participating pharmacy together with a prescription from a licensed prescriber.~~ ~~(3-17-22)~~

~~**02. Tamper-Resistant Prescription Requirements**. Any written, non-electronic prescription for a Medicaid participant must be written on a tamper-resistant prescription form. The paper on which the prescription is written must have:~~ ~~(3-17-22)~~

~~**a.** One (1) or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;~~ ~~(3-17-22)~~

~~**b.** One (1) or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber;~~ ~~(3-17-22)~~

~~**c.** One (1) or more industry-recognized features designed to prevent the use of counterfeit prescription forms.~~ ~~(3-17-22)~~

~~**03. Tamper-Resistant Prescription Requirements Not Applicable**. The tamper-resistant prescription requirements do not apply when the prescription is communicated by the prescriber to the pharmacy electronically, verbally, by fax, or when drugs are provided in an inpatient hospital or a nursing facility where the patient and family do not have direct access to the paper prescription.~~ ~~(3-17-22)~~

~~**04. Drug Coverage for Dual Eligibles**. For Medicaid participants who are also eligible for Medicare known as "dual eligibles", the Department~~Medicaid will pay for Medicaid-covered drugs that are not covered by Medicare Part D. for Dual eligibles, ~~will be~~ subject to the same limits and processes used for ~~any~~ other Medicaid participants. ~~(3-17-22)~~( )

**662. PRESCRIPTION DRUGS: COVERAGE AND LIMITATIONS.**

**01. General Drug Coverage**. ~~The Department will pay for those~~ Medicaid covers prescription drugs not excluded ~~by Subsections 662.06 and 662.07 of~~ under this rule that are legally obtainable by the order of a ~~licensed~~ prescriber ~~whose licensing allows for the prescribing of prescription drugs or legend drugs, as defined~~ under Section 54-1705, Idaho Code~~, and which are deemed medically necessary as defined in Section 011 of these rules~~. ~~(3-17-22)~~( )

**02. Preferred Drug List (PDL)**. (3-17-22)

**a.** The PDL identifies ~~the~~ preferred drugs and non-preferred drugs within a therapeutic class designated by the Department, and reviewed by the ~~Idaho Medicaid~~ Pharmacy and Therapeutics Committee (P&T Committee). ~~(3-17-22)~~( )

**b.** A brand name drug may be designated as a preferred drug by the Department if the net cost of the brand name drug after consideration of all rebates is less than the cost of the generic equivalent. (3-17-22)

**c.** The Director ~~of the Department~~ makes final decisions regarding the designated preferred or non-preferred status of drugs based on therapeutic recommendations from the P~~harmacy and~~ &T~~herapeutics~~ Committee and cost analysis from the ~~Idaho~~ Medicaid Pharmacy Program. ~~(3-17-22)~~( )

~~**d.** Drugs in a drug class on the Medicaid PDL may require therapeutic prior authorization regardless of preferred or non-preferred designation.~~ ~~(3-17-22)~~

**03. Covered Drug Products**. ~~Idaho~~ Medicaid provides coverage to ~~Medicaid~~ participants for the following drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under Section 1927(d)(2) of the Social Security Act: ~~(3-17-22)~~( )

**a.** Agents, when used to promote smoking cessation. (3-17-22)

**b.** Prescription vitamins and mineral products. Covered agents include the following: (3-17-22)

i. Injectable vitamin B12 (cyanocobalamin and analogues); (3-17-22)

ii. Vitamin K and analogues; (3-17-22)

iii. Prescription vitamin D and analogues; (3-17-22)

iv. Prescription pediatric vitamins, minerals, and fluoride preparations; (3-17-22)

v. Prenatal vitamins for pregnant or lactating individuals; and (3-17-22)

vi. Prescription folic acid and oral prescription drugs containing folic acid in combination with vitamin B12 or iron salts, or both, without additional ingredients. (3-17-22)

**c.** Certain prescribed non-prescription products, including the following: (3-17-22)

i. Permethrin; (3-17-22)

ii. Oral iron salts; (3-17-22)

iii. Disposable insulin syringes and needles; and (3-17-22)

iv. Insulin. (3-17-22)

**d.** Barbiturates. (3-17-22)

**e.** Benzodiazepines. (3-17-22)

**04. Additional Criteria for Coverage**. ~~(3-17-22)~~

~~**a.** Medical necessity is the primary determinant of whether a therapeutic agent will be covered. The Department will cover generic drugs, and also brand drugs when medically necessary and when that necessity is adequately documented. If case-specific indications of medical necessity are present, the Department may also issue prior authorization for otherwise excluded drugs.~~ ~~(3-17-22)~~

~~**b.**~~ The Director ~~of the Department of Health and Welfare~~, acting upon the recommendation of the P~~harmacy and~~ &T~~herapeutics~~ Committee, may determine ~~that~~ a non-prescription drug product is covered when ~~the non-prescription product~~ it is found to be therapeutically interchangeable with prescription drugs in the same pharmacological class following evidence-based comparisons of efficacy, effectiveness, clinical outcomes, and safety, and the product is deemed by the Department to be a cost-effective alternative. ~~Information regarding the Pharmacy and Therapeutics Committee and covered drug products is posted at http://medicaidpharmacy.idaho.gov.~~ ~~(3-17-22)~~( )

**05. Excluded Drug Products**. ~~Idaho~~ Medicaid excludes from coverage the following drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under Section 1927(d)(2) of the Social Security Act: ~~(3-17-22)~~( )

**a.** Agents, when used to promote fertility. (3-17-22)

**b.** Agents, when used for cosmetic purposes or hair growth. (3-17-22)

**c.** Agents, when used for the symptomatic relief of cough and colds. (3-17-22)

**d.** Agents, when used for the treatment of obesity. ( )

~~**d**~~**e.** Covered outpatient drugs for which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee. (3-17-22)

~~e~~f. Agents, when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration (FDA). ~~(3-17-22)~~( )

**06. Additional Excluded Drugs**. Drugs are ~~also~~ not covered ~~when~~ under any of the following circumstances ~~apply~~: ~~(3-17-22)~~( )

**a.** ~~The participant's practitioner has written an order for a p~~Prescription drugs ~~for which~~ ineligible for federal financial participation ~~is not available~~. ~~(3-17-22)~~( )

**b.** ~~The participant's practitioner has written an order for a p~~Prescription drugs ~~that is~~ deemed to be experimental or investigational, ~~as defined in Subsection 390.03 of~~ under these rules. ~~Investigational drugs are not a covered service under the Idaho Medicaid pharmacy program.~~ The Department may consider Medicaid coverage on a case-by-case basis for life-threatening medical illnesses when no other treatment options are available. When approved for payment, reimbursement will be at actual acquisition cost (AAC), plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

**07. Limitation of Quantities**. Medication refills provided before at least seventy-five percent (75%) of the estimated days' supply has been utilized are not covered, unless an increase in dosage is ordered. Days' supply is the number of days a medication is expected to last when used at the dosage prescribed for the participant. No more than a thirty-four (34) days' supply of continuously required medication is to be purchased in a calendar month as a result of a single prescription ~~with the following~~ except~~ions~~: ~~(3-17-22)~~( )

**a.** ~~Maintenance Medications. Pharmacy p~~Providers may be reimbursed for up to a three (3) month supply of select medications or classes of medications for a participant who has received the same dose of the same select medication or class of medications for two months or longer. The Director ~~of the Department of Health and Welfare~~, acting upon the recommendation of the P~~harmacy and &T~~herapeutics Committee, approves the list of covered maintenance medications, which targets medications that are administered continuously rather than intermittently, are used most commonly to treat a chronic disease state, and have a low probability for dosage changes. The list of covered maintenance medications is available on the Medicaid Pharmacy website at http://medicaidpharmacy.idaho.gov. ~~(3-17-22)~~( )

**b.** ~~Oral Contraceptive Products. Oral c~~Contraceptive products may be dispensed in a quantity sufficient for ~~one (1), two (2), or three (3) cycles~~ up to six (6) months. ~~(3-17-22)~~( )

**663. PRESCRIPTION DRUGS: PROCEDURAL REQUIREMENTS.**
~~In accordance with Section 1927(d)(1)(A) of the Social Security Act, the Idaho Medicaid Pharmacy Program may subject any covered outpatient drug to prior authorization.~~ ~~(3-17-22)~~

~~**01. Drugs Requiring Prior Authorization**. No payment for drugs requiring prior authorization will be issued until the prior authorization request has been reviewed and approved by the Department.~~ ~~(3-17-22)~~

~~**02. Prior Authorization Criteria**. Criteria for prior authorization for individual drugs and drug classes will be determined by the Department, and will include:~~ ~~(3-17-22)~~

~~**a.** Food and Drug Administration (FDA) indications and labeling, including dosage guidelines.~~ ~~(3-17-22)~~

~~**b.** Compendia of drug information recognized by the Centers for Medicare and Medicaid Services (CMS), including:~~ ~~(3-17-22)~~

~~i. American Hospital Formulary Service Drug Information;~~ ~~(3-17-22)~~

~~ii. United States Pharmacopeia-Drug Information, or its successor publications; and~~ ~~(3-17-22)~~

~~iii. The DrugDex Information System.~~ ~~(3-17-22)~~

~~c. Evidence-based, peer-reviewed, published medical literature, including: (3-17-22)~~

~~i. Systematic reviews; (3-17-22)~~

~~ii. Randomized controlled trials; and (3-17-22)~~

~~iii. Meta-analysis studies. (3-17-22)~~

~~d. Guidelines and case-controlled studies may be considered where systematic reviews, randomized controlled trials and meta-analysis studies do not exist. (3-17-22)~~

~~e. The requested drug's preferred drug status. (3-17-22)~~

0~~3~~1. **Request for Prior Authorization**. (3-17-22)

**a.** ~~The p~~Prior authorization ~~procedure~~ is initiated by the prescriber ~~who must~~ by submitting the request to the Department in the format prescribed by the Department. ~~(3-17-22)~~( )

**b.** Whenever possible, the Department will use automated authorization, in which claims are adjudicated at point of sale using submitted National Council for Prescription Drug Programs (NCPDP) data elements or claims history to verify ~~that~~ the Department's authorization requirements have been satisfied, without the need for the prescriber to submit additional clinical information. ~~(3-17-22)~~( )

0~~4~~2. **Notice of Decision**. The Department will determine coverage based on this request, and will notify the participant of a denial. The participant has twenty-eight (28) days from the date the denial letter is mailed to appeal the decision. ~~Hearings will be conducted in accordance with IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ ~~(3-17-22)~~( )

0~~5~~3. **Emergency Situation**. The Department will provide for the dispensing of at least a seventy-two (72) hour supply of a covered outpatient prescription drug in an emergency situation as required in 42 U.S.C. 1396r-8(d)(5)(B). (3-17-22)

0~~6~~4. **Response to Request**. The Department will respond within twenty-four (24) hours to a request for prior authorization of a covered outpatient prescription drug ~~as required in~~ under 42 U.S.C. 1396r-8(d)(5)(A). ~~(3-17-22)~~( )

~~07. Prohibition Against Cash Payment for Controlled Substances. Pharmacy providers are prohibited from accepting cash as payment for controlled substances from persons known to be Medicaid participants. (3-17-22)~~

0~~8~~5. **Supplemental Rebates**. (3-17-22)

**a.** ~~Purpose. The purpose of s~~Supplemental rebates ~~is to~~ enable the Department to purchase prescription drugs provided to Medicaid participants in a cost-effective manner. ~~The s~~Supplemental rebates may be one (1) factor considered in determining a drug's preferred drug status, but ~~it is~~ secondary to considerations of the safety, effectiveness, and clinical outcomes of the drug in comparison with other therapeutically interchangeable ~~alternative~~ drugs. ~~(3-17-22)~~( )

**b.** ~~Rebate Amount.~~ The Department may negotiate with manufacturers supplemental rebates for prescription drugs that are in addition to those required by Title XIX of the Social Security Act. There is no upper limit on the dollar amounts of the supplemental rebates the Department may negotiate. ~~(3-17-22)~~( )

~~09. Comparative Costs to be Considered. Whenever possible, physicians and pharmacists are encouraged to utilize less expensive drugs and drug therapies. (3-17-22)~~

**06. Dispensing Procedures**. The following protocol is required for prescription filling: ( )

**a.** Refills must be authorized by the prescriber on the original or new prescription order on file and each refill must be recorded on the prescription, logbook, computer print-out, or participant's medication profile. Automatic refills are not allowed. All refills must be initiated by a request from the participant, prescriber, or another person, acting as an agent of the participant. Authorization for each refill must be received prior to the beginning of the filling process by the pharmacy. ( )

**b.** Dispensing Prescription Drugs. Prescriptions must be dispensed according to: ( )

i. 21 CFR Section 1300, et seq.; ( )

ii. Title 54, Chapter 17, and Title 37, Chapters 1, 27, and 32, Idaho Code; ( )

iii. IDAPA 24.36.01, "Rules of the Idaho State Board of Pharmacy"; and ( )

iv. Sections 660 through 666 of these rules. ( )

**c.** Prescriptions must be maintained on file in pharmacies and available for immediate review by the Department upon written request. ( )

**07. Return of Unused Prescription Drugs**. Drugs dispensed in unit does packaging must be returned to the dispensing pharmacy when the participant no longer uses the medication as follows: ( )

**a.** A pharmacy using unit dose packaging must comply with IDAPA 24.36.01, "Rules of the Idaho State Board of Pharmacy." ( )

**b.** The pharmacy that receives the returned drugs must credit the Department the amount billed for the cost of the drug less the professional dispensing fee. ( )

**664. PRESCRIPTION DRUGS: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. ~~Payment for Covered Drugs~~Enrollment**. ~~Payment will be made, as provided in Section 665 of these rules, only to p~~Pharmacies ~~registered~~ will enroll with the Department ~~as a provider for~~ using the specific location where the service was performed. ~~An out of the state pharmacy shipping or mailing a prescription into Idaho must have a valid mail order license issued by the Idaho Board of Pharmacy and be properly enrolled as a Medicaid provider.~~ ~~(3-17-22)~~( )

**02. ~~Dispensing Procedures~~**. ~~The following protocol must be followed for proper prescription filling.~~**Out-of-State Providers**. An out of state pharmacy shipping or mailing a prescription into Idaho must have a valid mail order license issued by the Idaho Board of Pharmacy. ~~(3-17-22)~~( )

~~**a.** Prescription Drug Refills. Refills of prescription drugs must be authorized by the prescriber on the original or new prescription order on file and each refill must be recorded on the prescription or logbook, or computer print-out, or on the participant's medication profile. (3-17-22)~~

~~**b.** Automatic Refills. (3-17-22)~~

~~i. Automatic refills are not allowed for Idaho Medicaid participants. A request specific to each medication is required. (3-17-22)~~

~~ii. All prescription refills must be initiated by a request from the participant, the prescriber, or another person, such as a family member, acting as an agent of the participant. (3-17-22)~~

~~iii. Authorization for each prescription refill must be received prior to the beginning of the filling process by the pharmacy. (3-17-22)~~

~~**c.** Dispensing Prescription Drugs. Prescriptions must be dispensed according to: (3-17-22)~~

~~i. 21 CFR Section 1300, et seq.; (3-17-22)~~

~~ii. Title 54, Chapter 17, and Title 37, Chapters 1, 27, and 32, Idaho Code; (3-17-22)~~

~~iii. IDAPA 27.01.03, "Rules Governing Pharmacy Practice"; and (3-17-22)~~

~~iv. Sections 660 through 666 of these rules. (3-17-22)~~

~~**d.** Prescriptions on File. Prescriptions must be maintained on file in pharmacies in such a manner that they are available for immediate review by the Department upon written request. (3-17-22)~~

~~**03. Return of Unused Prescription Drugs**. When prescription drugs were dispensed in unit dose packaging, as defined by IDAPA 27.01.03, "Rules Governing Pharmacy Practice," and the participant for whom the drugs were prescribed no longer uses them: (3-17-22)~~

~~**a.** A licensed skilled nursing care facility may return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (3-17-22)~~

~~**b.** A residential or assisted living facility may return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (3-17-22)~~

~~**04. Pharmacy Provider Receiving Unused Prescription Drugs**. In order for a pharmacy provider to receive unused prescription drugs that it dispensed in unit dose packaging and that are being returned by a facility identified in Subsection 664.03 of this rule, the pharmacy provider: (3-17-22)~~

~~**a.** Must comply with IDAPA 27.01.03, "Rules Governing Pharmacy Practice," regarding unit dose packaging; (3-17-22)~~

~~**b.** Must credit the Department the amount billed for the cost of the drug less the professional dispensing fee; and (3-17-22)~~

~~**c.** May receive a fee for acceptance of returned unused prescription drugs. The value of the unused prescription drug being returned must be such that return of the drug is cost-effective as determined by the Department. (3-17-22)~~

**665. PRESCRIPTION DRUGS: PROVIDER REIMBURSEMENT.**
With specific exceptions ~~as set forth in~~ under Subsections 665.01 through 665.04 of this rule, ~~Idaho~~ Medicaid pharmac~~y~~ies ~~providers~~ are reimbursed based on ~~actual acquisition costs~~ AACs. ~~Idaho~~ Medicaid may require providers to supply documentation of their ~~acquisition costs as described in~~ AACs under the Medicaid Pharmacy Claims Submission Manual available at: https://idaho.fhsc.com/downloads/providers/IDRx_Pharmacy_Claims_Submission_Manual.pdf. Reimbursement is restricted to ~~those~~ drugs supplied from labelers ~~that are~~ participating in the CMS Medicaid Drug Rebate Program. ~~(3-17-22)~~( )

**01. Pharmacy Reimbursement**. Prescriptions not filled ~~in accordance with the provisions of~~ according to Subsection 66~~4~~3.0~~2~~6 of these rules will be subject to nonpayment or recoupment. The following protocol ~~must be followed~~ is required for ~~proper~~ reimbursement. ~~(3-17-22)~~( )

**a.** ~~Filing Claims.~~ Pharmacies must file claims ~~electronically with Department-approved software or by submitting the appropriate claim form to the fiscal contractor. Upon request, the contractor will provide pharmacies with a supply of claim forms. The form must~~ includ~~e~~ing information described in the pharmacy guidelines issued by the Department. ~~(3-17-22)~~( )

~~**b.** Billed Charges. A pharmacy's billed charges are not to exceed the usual and customary charges defined as the lowest charge by the provider to the general public for the same service including advertised specials. (3-17-22)~~

~~**c**~~**b.** Reimbursement ~~Reimbursement to pharmacies~~ is limited to the lowest of the following:

~~(3-17-22)~~( )

i. ~~Actual Acquisition Cost (~~AAC~~)~~ based on results of the periodic state cost survey ~~as defined in~~ under this rule, plus ~~the assigned~~ professional dispensing fee. In cases where no AAC is available, reimbursement will be the Wholesale Acquisition Cost (WAC). WAC ~~will mean~~ is the price, for a given calendar quarter, paid by a wholesaler for the drugs purchased from the wholesaler's supplier. The wholesaler's supplier is typically the manufacturer of the drug as published by a recognized compendium of drug pricing for the same calendar quarter; ~~(3-17-22)~~( )

ii. State Maximum Allowable Cost (SMAC), as established by the Department, plus ~~the assigned~~ professional dispensing fee; ~~(3-17-22)~~( )

iii. Federal Upper Limit (FUL), as established by ~~the Centers for Medicare and Medicaid Services (~~CMS~~) of the U.S. Department of Health and Human Services~~, plus ~~the~~ professional dispensing fee ~~assigned by the Department~~; or ~~(3-17-22)~~( )

iv. The provider's usual and customary charge to the general public. (3-17-22)

**d.** ~~Periodic State Cost Surveys.~~ The Department will utilize periodic state cost surveys to obtain the most accurate pharmacy drug ~~acquisition costs~~ AACs in establishing a pharmacy reimbursement fee schedule. Pharmacies participating in the ~~Idaho~~ Medicaid Pharmacy Program are required to participate in these periodic state cost surveys by disclosing the costs of all drugs. A pharmacy that is non-responsive to the periodic state cost surveys can be disenrolled as a Medicaid provider by the Department. ~~(3-17-22)~~( )

**e.** ~~Physician~~Provider Administered Drugs. ~~(3-17-22)~~( )

i. Reimbursement to providers that are not 340B covered entities for medications administered to ~~Medicaid~~ participants by ~~physicians or other qualified and licensed~~ providers will be: ( )

(1) ~~n~~Ninety percent (90%) of the published Medicare Average Sales Price plus six percent (6%) rate (ASP+6% rate). ( )

(2) If the ASP+6% rate is not available, payment will be at the ~~Wholesale Acquisition Cost (~~WAC~~)~~. ~~(3-17-22)~~( )

(3) If the ASP and WAC are not available, an invoice from the manufacturer or wholesaler is required, reimbursement will be at cost plus ten percent (10%). Radiopharmaceuticals will be paid additionally for the cost of shipping. ( )

ii. Reimbursement to 340B covered entities for medications administered to ~~Medicaid~~ participants by ~~physicians or other qualified and licensed~~ providers will be the actual 340B drug ~~acquisition cost~~ AAC, not to exceed the 340B ceiling price. ~~(3-17-22)~~( )

**f.** Clotting Factors. (3-17-22)

i. Reimbursement to specialty pharmacies will be at a state-based price equivalent to the published Medicare ASP+6% rate, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

ii. Reimbursement to Hemophilia Treatment Centers will be the 340B ~~actual acquisition cost~~ AAC, not to exceed the 340B ceiling price. ~~(3-17-22)~~( )

**g.** ~~Professional Dispensing Fee.~~ Professional Dispensing Fee is ~~defined as~~ a tier-based amount paid on a pharmacy claim, over and above the ingredient cost, to compensate the provider for the pharmacist's professional services related to dispensing a prescription to a ~~Medicaid~~ participant, including: ~~(3-17-22)~~( )

i. ~~Looking up information about~~Verifying a participant's coverage ~~on the computer~~; ~~(3-17-22)~~( )

ii. Performing drug use reviews and preferred drug list review activities; (3-17-22)

iii. Measuring or mixing the covered outpatient drug; (3-17-22)

iv. Filling the container; (3-17-22)

v. Participant counseling; (3-17-22)

vi. Physically providing the completed prescription to the ~~Medicaid~~ participant; ~~(3-17-22)~~( )

vii. Special packaging; and (3-17-22)

viii. Overhead associated with maintaining the facility and equipment necessary to operate the dispensing entity. (3-17-22)

**h.** Limitations on ~~Payment of~~ Professional Dispensing Fees. Only one (1) professional dispensing fee per month ~~will be~~ is allowed for the dispensing of each maintenance drug to any participant as an outpatient or a resident in a care facility except: ~~(3-17-22)~~( )

i. Multiple dispensing of topical and injectable medication when dispensed in manufacturer's original package sizes, unless evidence exists, as determined by the Department, that the quantity dispensed does not relate to the prescriber's order; (3-17-22)

ii. Multiple dispensing of oral liquid maintenance medication if a reasonable quantity, as determined by the Department, is dispensed at each filling; (3-17-22)

iii. Multiple dispensing of tablets or capsules if the quantity needed for a thirty-four (34) day supply is excessively large or unduly expensive, in the judgment of the Department; or (3-17-22)

iv. When the dose is being titrated for maximum therapeutic response with a minimum of adverse effects. (3-17-22)

~~**i.** Tier-Based Professional Dispensing Fees. A professional dispensing fee for each pharmacy provider will be established in accordance with this rule.~~ ~~(3-17-22)~~

~~**j**~~**i.** ~~Claims Volume Survey for Tier-Based Professional Dispensing Fees.~~ The Department will survey pharmacy providers to establish a professional dispensing fee for each provider. The professional dispensing fees will be paid based on the provider's total annual claims volume. The provider must return the claims volume survey to the Department no later than May 31st each year. ~~Pharmacy p~~Providers who do not complete the annual claims volume survey will be assigned the lowest professional dispensing fee starting on July 1st until the next annual survey is completed. Based upon the annual claims volume of the enrolled pharmacy, the professional dispensing fee is provided online at: https://healthandwelfare.idaho.gov/providers/pharmacy-providers/idaho-medicaid-pharmacy-program. ~~(3-17-22)~~( )

~~**k**~~**j.** ~~Remittance Advice.~~ Claims are processed by computer, and payments are made directly to the pharmacy or its designated bank through electronic funds transfer. A remittance advice with detailed information of each claim transaction will accompany each payment made by the Department. ~~(3-17-22)~~( )

**02. 340B Covered Entity Reimbursement**. (3-17-22)

**a.** Participation as a 340B Covered Entity. Medicaid will reimburse 340B covered entities ~~as defined in~~ under Section 340B of the Public Health Service Act, codified under 42 U.S.C. 256b(a)(4), when the provider meets the following requirements: ~~(3-17-22)~~( )

i. A 340B covered entity ~~may receive reimbursement for drugs provided to Idaho Medicaid participants through the 340B drug pricing program if the 340B covered entity~~ submits its unique 340B identification number issued by the Health Resources and Services Administration (HRSA) and a copy of its completed HRSA

340B registration to ~~Idaho~~ Medicaid. ~~(3-17-22)~~( )

ii. A 340B covered entity that elects to provide drugs to ~~Idaho~~ Medicaid participants through the 340B drug pricing program must use 340B covered outpatient drugs for all dispensed or administered drugs, including those dispensed through the 340B covered entity's retail pharmacy or administered in an outpatient clinic. A 340B covered entity must ensure that a contract pharmacy does not dispense drugs, or receive Medicaid reimbursement for drugs, acquired by the 340B covered entity through the 340B drug pricing program. An entity that does not use 340B covered outpatient drugs for all dispensed or administered drugs, including those dispensed through the 340B covered entity's retail pharmacy or administered in an outpatient clinic, will be ~~deemed to be~~ carved out of the 340B drug pricing program and will be reimbursed for brand name and generic drugs ~~as provided in~~ under Subsection 665.01 of this rule. ~~(3-17-22)~~( )

iii. A 340B covered entity must provide ~~Idaho~~ Medicaid with thirty (30) days ~~advance~~ written notice of its intent to discontinue the provision of drugs acquired through the 340B drug pricing program to ~~Idaho Medicaid~~ participants. ~~(3-17-22)~~( )

~~**b.** Filing Claims. A 340B covered entity must file claims electronically with Department approved software or by submitting the appropriate claim form to the fiscal contractor. The form must include information described in the pharmacy guidelines issued by the Department. (3-17-22)~~

~~**e**~~**b.** ~~Reimbursement Exclusions.~~ Drugs acquired through the ~~federal~~ 340B drug pricing program and dispensed by 340B contract pharmacies are not covered. ~~(3-17-22)~~( )

~~**d**~~**c.** Reimbursement~~. Reimbursement~~ to 340B covered entities is limited to their actual 340B drug ~~acquisition cost~~ AAC submitted, not to exceed the 340B ceiling price, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

~~**e.** Professional Dispensing Fee. Only one (1) professional dispensing fee per month will be allowed for the dispensing of each maintenance drug to any participant as an outpatient or a resident in a care facility except: (3-17-22)~~

~~i. Multiple dispensing of topical and injectable medication when dispensed in manufacturer's original package sizes, unless evidence exists, as determined by the Department, that the quantity dispensed does not relate to the prescriber's order; (3-17-22)~~

~~ii. Multiple dispensing of oral liquid maintenance medication if a reasonable quantity, as determined by the Department, is dispensed at each filling; (3-17-22)~~

~~iii. Multiple dispensing of tablets or capsules if the quantity needed for a thirty-four (34) day supply is excessively large or unduly expensive, in the judgment of the Department; or (3-17-22)~~

~~iv. When the dose is being titrated for maximum therapeutic response with a minimum of adverse effects. (3-17-22)~~

~~**f.** Tier-Based Professional Dispensing Fees. A professional dispensing fee for each 340B covered entity will be established in accordance with this rule. (3-17-22)~~

~~**g.** Remittance Advice. Claims are processed by computer, and payments are made directly to the 340B covered entity or its designated bank through electronic funds transfer. A remittance advice with detailed information of each claim transaction will accompany each payment made by the Department. (3-17-22)~~

**03. Reimbursement for Drugs Dispensed by Other Provider Types**. (3-17-22)

**a.** Drugs acquired through non-340B Indian Health Service, Tribal, or Urban Indian pharmacies will be reimbursed at the ~~actual acquisition cost~~ AAC to the entity, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

**b.** Drugs acquired via the Federal Supply Schedule (FSS) will be reimbursed at the FSS ~~actual acquisition cost~~ AAC, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

**c.** Drugs acquired at nominal price, ~~which is~~ defined as pricing that is outside of 340B regulations or FSS, will be reimbursed at the ~~actual acquisition cost~~ AAC, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

**d.** Specialty drugs not dispensed by retail community pharmacies and dispensed primarily through the mail will be reimbursed at the Idaho ~~actual acquisition cost~~ AAC, if such cost is available, plus ~~the~~ professional dispensing fee. If the ~~actual acquisition cost~~ AAC is not available, drugs will be reimbursed at the lower of the ~~Wholesale Acquisition Cost (~~WAC~~)~~ or ~~State Maximum Allowable Cost (~~SMAC~~)~~ as established by the Department, plus the assigned professional dispensing fee. ~~(3-17-22)~~( )

**e.** Drugs not distributed by a retail community pharmacy, such as drugs dispensed in a long-term care facility or dispensed to participants receiving swing-bed services, ~~as described in Subsection 405.05 of~~ under these rules, will be reimbursed at the actual ingredient cost, plus ~~the assigned~~ professional dispensing fee. ~~(3-17-22)~~( )

**04. Limitations on Payment**. Medicaid payment for prescription drugs will be limited as follows: (3-17-22)

**a.** ~~Medication for Multiple Persons.~~ When the medication dispensed is for more than one (1) person, Medicaid will only pay for the amount prescribed for ~~the person or persons~~ those covered by Medicaid. ~~(3-17-22)~~( )

~~**b.** No Prior Authorization. Medicaid will not pay for a covered drug or pharmacy item that requires, but has not received, prior authorization for Medicaid payment as required in Section 663 of these rules. (3-17-22)~~

~~**c**~~**b.** Limitations to Discourage Waste. Medicaid may conduct drug utilization reviews and impose limitations for participants whose drug utilization exceeds the standard participant profile or disease management guidelines determined by the Department. (3-17-22)

~~**05. Return of Drugs**. Drugs dispensed in unit dose packaging as defined by IDAPA 27.01.01, "General Provisions," must be returned to the dispensing pharmacy when the participant no longer uses the medication as follows: (3-17-22)~~

~~**a.** A pharmacy provider using unit dose packaging must comply with IDAPA 27.01.03, "Rules Governing Pharmacy Practice." (3-17-22)~~

~~**b.** The pharmacy provider that receives the returned drugs must credit the Department the amount billed for the cost of the drug less the professional dispensing fee. (3-17-22)~~

~~**c.** The pharmacy provider may receive a fee for acceptance of returned unused drugs. The value of the unused drug being returned must be cost effective as determined by the Department. (3-17-22)~~

**0~~6~~5. Cost Appeal Process**. Cost appeals will be determined by the Department's process provided online ~~at: https://healthandwelfare.idaho.gov/providers/pharmacy-providers/idaho-medicaid-pharmacy-program~~. ~~(3-17-22)~~( )

## ~~666. PRESCRIPTION DRUGS: QUALITY ASSURANCE.~~

~~**01. Pharmacy And Therapeutics Committee (P&T Committee).** (3-17-22)~~

~~**a.** Membership. The P&T Committee is appointed by the Director and is composed of practicing pharmacists, physicians and other licensed health care professionals with authority to prescribe medications. (3-17-22)~~

~~**b.** Function. The P&T Committee has the following responsibilities for the prior authorization of~~

~~drugs under Section 663 of these rules:~~ ~~(3-17-22)~~

~~i. To serve in evaluational, educational and advisory capacities to the Idaho Medicaid Pharmacy Program specific to the prior authorization of drugs.~~ ~~(3-17-22)~~

~~ii. To review evidence-based clinical and pharmacy economic data and recommend to the Department preferred and non-preferred drugs in classes designated for the Idaho Medicaid Preferred Drug List.~~ ~~(3-17-22)~~

~~iii. To recommend to the Department the classes of medications to be reviewed through evidence-based evaluation.~~ ~~(3-17-22)~~

~~iv. To review drug utilization outcome studies and intervention reports from the Drug Utilization Review Board as part of the process of reviewing and developing recommendations to the Department.~~ ~~(3-17-22)~~

~~c. Meetings. The P&T Committee meetings will be open to the public and a portion of each meeting will be set aside to hear and review public comment. The P&T Committee may adjourn to executive session to consider the following:~~ ~~(3-17-22)~~

~~i. Relative cost information for prescription drugs that could be used by representatives of pharmaceutical manufacturers or other people to derive the proprietary information of other pharmaceutical manufacturers; or~~ ~~(3-17-22)~~

~~ii. Participant specific or provider specific information.~~ ~~(3-17-22)~~

**66~~7~~6. -- 679. (RESERVED)**

**SUB AREA: FAMILY PLANNING**
**(Sections 680-699)**

**680. (RESERVED)**

**681. FAMILY PLANNING SERVICES: PARTICIPANT ELIGIBILITY.**

**01. Sterilization Procedures~~ -- General Restrictions~~**. ~~The following restrictions govern payment for s~~Sterilization procedures ~~for eligible persons~~ are only a covered service when they meet the requirements in 42 CFR 441.253, 42 CFR 441.257, and 42 CFR 441.258. ~~(3-17-22)~~( )

~~a. No sterilization procedures will be paid on behalf of a participant who is not at least twenty-one (21) years of age at the time they sign the informed consent.~~ ~~(3-17-22)~~

~~b. No sterilization procedures will be paid on behalf of any participant who is twenty-one (21) years of age or over and who is incapable of giving informed consent.~~ ~~(3-17-22)~~

~~c. Each participant must voluntarily sign the properly completed "Consent Form" HW-0034, or its equivalent, in the presence of the person obtaining consent in accordance with Section 683 of these rules.~~ ~~(3-17-22)~~

~~d. Each participant must sign the "Consent Form" at least thirty (30) days but not more than one hundred eighty (180) days, prior to the sterilization procedures. Exceptions to these time requirements are described under Subsection 682.03 of these rules.~~ ~~(3-17-22)~~

**02. ~~Circumstances Under Which Payment Can be Made for a~~ Hysterectom~~y~~ies**. Payment can be made for a hysterectomy only if: ~~(3-17-22)~~( )

~~a. It is medically necessary. A document must be attached to the claim to substantiate this requirement; and~~ ~~(3-17-22)~~

~~b. There was more than one (1) purpose in performing the hysterectomy, and the hysterectomy would~~

~~not have been performed for the sole purpose of rendering an individual permanently incapable of reproducing; and~~ ~~(3-17-22)~~

~~c~~a. The participant was advised orally and in writing that sterility would result ~~and that she would no longer be able~~ in the inability to bear children; and ~~(3-17-22)~~( )

~~d~~b. The participant signs and dates a~~n "Authorization for Hysterectomy"~~ form~~. The form must state "I have been informed orally and in writing that a hysterectomy will render me permanently incapable of reproducing. I was informed of these consequences prior to the surgery being performed~~ that meets the requirements of the Idaho Medicaid Provider Handbook~~."~~ ~~(3-17-22)~~( )

c. Claims require supporting documentation attached to the claim. ( )

**682. FAMILY PLANNING SERVICES: COVERAGE AND LIMITATIONS.**
Family planning includes counseling and medical services prescribed or performed by a~~n independent licensed physician, or a qualified certified nurse practitioner or physician's assistant~~ provider. Specific items covered are diagnosis, treatment, contraceptive supplies, related counseling, and restricted sterilization. ~~(3-17-22)~~( )

**01. Contraceptive Supplies**. (3-17-22)

**a.** Contraceptive supplies include condoms, foams, creams and jellies, prescription diaphragms, intrauterine devices, or oral contraceptives. (3-17-22)

**b.** Contraceptives requiring a prescription are payable subject to Section 662 of these rules. (3-17-22)

**c.** Payment for oral contraceptives is limited to purchase of a ~~three~~ six (~~3~~6) month supply. ~~(3-17-22)~~( )

**02. Sterilization**. (3-17-22)

**a.** No sterilizations for individuals institutionalized in correctional facilities, mental hospitals, or other rehabilitative facilities are ~~eligible for payment~~ payable unless such sterilizations are ordered by a court of law. ~~(3-17-22)~~( )

**b.** Hysterectomies ~~performed solely for sterilization purposes are not eligible for payment (see Subsection 681.02 of~~ are subject to these rules ~~for those conditions under which a hysterectomy can be eligible for payment)~~. ~~(3-17-22)~~( )

**c.** All requirements of state or local law for obtaining consent, except for spousal consent, must be followed. (3-17-22)

~~**d.** Suitable arrangements must be made to insure that information as specified in Subsection 681.01 of these rules is effectively communicated to any individual to be sterilized who is blind, deaf, or otherwise disabled.~~ ~~(3-17-22)~~

**03. Exceptions to Sterilization Time Requirements**. If premature delivery occurs or emergency abdominal surgery is required, the physician must certify that the sterilization was performed because of the premature delivery or emergency abdominal surgery less than thirty (30) days, but no less than seventy-two (72) hours after the date of the participant's signature on the consent form; and (3-17-22)

**a.** In the case of premature delivery, the physician must also state the expected date of delivery and describe the emergency in detail; and (3-17-22)

**b.** Describe, in writing to the Department, the nature of any emergency necessitating emergency abdominal surgery; and (3-17-22)

**c.** Under no circumstance can the period between consent and sterilization exceed one hundred eighty

(180) days. (3-17-22)

**04. Requirements for Sterilization Performed Due to a Court Order**. When a sterilization is performed after a court order is issued, the physician performing the sterilization must have been provided with a copy of the court order prior to the performance of the sterilization~~. In addition they must:~~, and: ~~(3-17-22)~~( )

**a.** Certify~~, by signing a properly completed "Consent Form" HW-0034, or its equivalent, and submitting the consent form with their claim,~~ that all requirements have been met concerning sterilizations; and ~~(3-17-22)~~( )

**b.** Submit ~~to the Department~~ a copy of the court order together with the "Consent Form" and claim. ~~(3-17-22)~~( )

**683. FAMILY PLANNING SERVICES: PROCEDURAL REQUIREMENTS.**

**01. Sterilization Consent Form Requirements**. Informed consent exists when a properly completed "Consent Form" ~~HW-0034~~, or its equivalent, is submitted to the Department together with the physician's claim for the sterilization. Completed informed consent forms must meet all the requirements in 42 CFR 441.258, in order to be eligible for reimbursement. The person obtaining informed consent must ensure and certify all the requirements in 42 CFR 441.257 have been met. If the individual obtaining the consent and the physician who will perform the sterilization procedure are the same person, that person must sign both statements on the consent form. ~~(3-17-22)~~( )

~~**a.** The consent form must be signed and dated by: (3-17-22)~~

~~i. The participant to be sterilized; and (3-17-22)~~

~~ii. The interpreter, if one (1) is provided; and (3-17-22)~~

~~iii. The individual who obtains the consent; and (3-17-22)~~

~~iv. The physician who will perform the sterilization procedure. (3-17-22)~~

~~v. If the individual obtaining the consent and the physician who will perform the sterilization procedure are the same person, that person must sign both statements on the consent form. (3-17-22)~~

~~**b.** Informed consent must not be obtained while the participant in question is: (3-17-22)~~

~~i. In labor or childbirth; or (3-17-22)~~

~~ii. Seeking to obtain or obtaining an abortion; or (3-17-22)~~

~~iii. Under the influence of alcohol or other substances that affect the individual's state of awareness. (3-17-22)~~

~~**c.** An interpreter must be provided if the participant does not understand the language used on the consent form or the language used by the person obtaining the consent. (3-17-22)~~

~~**d.** The person obtaining consent must: (3-17-22)~~

~~i. Offer to answer any questions the participant may have concerning the procedure; and (3-17-22)~~

~~ii. Orally advise the participant that they are free to withhold or withdraw consent to the procedure at any time before the sterilization without affecting their right to future care or treatment, and without loss or withdrawal of any federally funded program benefits to which the individual might otherwise be entitled; and (3-17-22)~~

iii. Provide a description of available alternative methods of family planning and birth control; and (3-17-22)

iv. Orally advise the participant that the sterilization procedure is considered to be irreversible; and (3-17-22)

v. Provide a thorough explanation of the specific sterilization procedure to be performed; and (3-17-22)

vi. Provide a full description of the discomfort and risks that may accompany and follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used; and (3-17-22)

vii. Provide a full description of the benefits or advantages that can be expected as a result of the sterilization; and (3-17-22)

viii. Advise that the sterilization procedure will not be performed for at least thirty (30) days except under extreme circumstances as specified in Subsection 682.03 of these rules. (3-17-22)

e. The person securing the consent from the participant must certify by signing the "Consent Form" that: (3-17-22)

i. Before the participant signed the consent form, they were advised that no federal benefits would be withheld because of the decision to be or not to be sterilized; and (3-17-22)

ii. The requirements for informed consent as set forth on the consent form were orally explained; and (3-17-22)

iii. To the best of their knowledge and belief, the participant appeared mentally competent and knowingly and voluntarily consented to the sterilization. (3-17-22)

f. The physician performing the sterilization must certify by signing the "Consent Form" that: (3-17-22)

i. At least thirty (30) days have passed between the participant's signature on that form and the date the sterilization was performed; and (3-17-22)

ii. To the best of the physician's knowledge the participant is at least twenty-one (21) years of age; and (3-17-22)

iii. Before the performance of the sterilization the physician advised the participant that no federal benefits will be withdrawn because of the decision to be or not to be sterilized; and (3-17-22)

iv. The physician explained orally the requirement for informed consent as set forth in the "Consent Form"; and (3-17-22)

v. To the best of their knowledge and belief the participant to be sterilized appeared mentally competent and knowingly and voluntarily consented to the sterilization. (3-17-22)

g. If an interpreter is provided, they must certify by signing the "Consent Form" that: (3-17-22)

i. They accurately translated the information and advice presented orally to the participant; and (3-17-22)

ii. They read the "Consent Form" and accurately explained its contents; and (3-17-22)

iii. To the best of their knowledge and belief, the participant understood the interpreter. (3-17-22)

~~h. The person obtaining consent must sign the "Consent Form" and certify that they have fulfilled specific requirements in obtaining the participant's consent. (3-17-22)~~

~~i. The physician who performs the sterilization must sign the "Consent Form" HW-0034, certifying that the requirements of this rule have been fulfilled. (3-17-22)~~

**684. (RESERVED)**

**685. FAMILY PLANNING SERVICES: PROVIDER REIMBURSEMENT.**
Payment to providers of family planning services for contraceptive supplies is limited to estimated acquisition cost. (3-17-22)

**686. -- 699. (RESERVED)**

**SUB AREA: BEHAVIORAL HEALTH SERVICES**
**(Sections 700-719)**

**700. ~~INPATIENT BEHAVIORAL HEALTH SERVICES: DEFINITIONS.~~(RESERVED)**

~~**01. Freestanding Psychiatric Hospital**. A hospital, nursing facility, or other institution of sixteen (16) beds or less that is primarily engaged in the diagnosis and treatment of mental diseases. The hospital is not considered freestanding if it shares a building or campus with another hospital, or is owned by another hospital. (3-17-22)~~

~~**02. Hospital Psychiatric Unit**. The psychiatric unit of a general hospital that furnishes inpatient care and treatment services for mental illness under a psychiatrist or other physician qualified to treat mental diseases. (3-17-22)~~

~~**03. Institutions for Mental Disease (IMD)**. A hospital, nursing facility or other institution of seventeen (17) beds or more that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. A specific licensure is not necessary to meet this definition. This definition does not apply to ICF/IIDs. (3-17-22)~~

~~**04. Substance Use Disorder**. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. A diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance and the current DSM. (3-17-22)~~

**701. ~~INPATIENT~~ BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.**
All participants eligible for Medicaid, except for participants in the Idaho Medicare-Medicaid coordinated plan (MMCP), are automatically enrolled in the Idaho behavioral health plan (IBHP) and may access behavioral health services that are medically necessary. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for inpatient services. ( )

~~**01. Inpatient Psychiatric Hospital Services**. Participants are eligible who have a diagnosis from the current DSM with substantial impairment in thought, mood, perception, or behavior. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Medical necessity must be demonstrated for admission or extended stay by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. Services may be provided in: (3-17-22)~~

~~**a.** A freestanding psychiatric hospital; (3-17-22)~~

~~**b.** A hospital psychiatric unit; and (3-17-22)~~

~~**c.** Subject to federal approval, an institution for mental diseases. (3-17-22)~~

~~**02. Inpatient Substance Use Disorder Services**. Participants are eligible when medical necessity is~~

demonstrated by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. A court ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. (3-17-22)

**03. Severity of Illness Criteria**. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. (3-17-22)

**a.** Severity of illness criteria. The participant must meet one (1) of the following criteria related to the severity of their psychiatric illness: (3-17-22)

i. Is currently dangerous to self as indicated by at least one (1) of the following: (3-17-22)

(1) Has actually made an attempt to take their own life in the last seventy-two (72) hours (details of the attempt must be documented); or (3-17-22)

(2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (3-17-22)

(3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the participant or a reliable source and details of the participant's plan must be documented); or (3-17-22)

(4) The participant has a current plan, specific intent, or recurrent thoughts to seriously harm himself or others, and is at significant risk of making an attempt without immediate intervention; or (3-17-22)

ii. Participant is actively violent or aggressive and exhibits homicidal ideation or other symptoms that indicate they are a probable danger to others as indicated by one (1) of the following: (3-17-22)

(1) The participant has engaged in, or threatened, behavior harmful or potentially harmful to others or caused serious damage to property that would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (3-17-22)

(2) The participant has made threats to kill or seriously injure others or to cause serious damage to property that would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (3-17-22)

(3) A mental health professional has information from the participant or a reliable source that the participant has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (3-17-22)

iii. Participant is gravely impaired as indicated by at least one (1) of the following criteria: (3-17-22)

(1) The participant has such limited functioning that their physical safety and well-being are in jeopardy due to their inability for basic self-care, judgment, and decision making (details of the functional limitations must be documented); or (3-17-22)

(2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the participant unmanageable and unable to cooperate in non-hospital treatment (details of the participant's behaviors must be documented); or (3-17-22)

(3) There is a need for treatment, evaluation, or complex diagnostic testing where the participant's level of functioning or communication precludes assessment or treatment, or both, in a non-hospital based setting, and may require close supervision of medication or behavior or both. (3-17-22)

(4) The participant is undergoing severe or medically complicated withdrawal from alcohol, opioids, stimulants, or sedatives. (3-17-22)

~~**04. Intensity of Service Criteria**. The participant must meet all of the following criteria related to the intensity of services needed for treatment.~~ ~~(3-17-22)~~

~~**a.** Documentation that ambulatory care resources available in the community do not meet the treatment needs of the participant; and~~ ~~(3-17-22)~~

~~**b.** The services provided can reasonably be expected to improve the participant's condition or prevent further regression so that inpatient services will no longer be needed; and~~ ~~(3-17-22)~~

~~**c.** Treatment of the participant's condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation.~~ ~~(3-17-22)~~

~~**d.** Exceptions. The requirement to meet intensity of service criteria may be waived for first time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the participant is in their current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations.~~ ~~(3-17-22)~~

~~**05. Exclusions**. If a participant meets one (1) or more of the following criteria, Medicaid reimbursement will be denied:~~ ~~(3-17-22)~~

~~**a.** The participant is unable to actively participate in an outpatient treatment program solely because of a major medical condition, surgical illness or injury; or~~ ~~(3-17-22)~~

~~**b.** The participant has a primary diagnosis of being intellectually disabled and the primary treatment need is related to the intellectual disability.~~ ~~(3-17-22)~~

**702. ~~INPATIENT~~ BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.**
Services included in the IBHP or State Plan are covered services that evaluate the need for and provide therapeutic and rehabilitative treatment to minimize symptoms of mental illness and substance use disorders and restore independent functioning. ( )

~~**01. Initial Length of Stay**. An initial length of stay, or a prior authorization requirement, will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. Requirements for establishing length of stay will never be more restrictive than requirements for non-behavioral health services in a general hospital.~~ ~~(3-17-22)~~

~~**02. Extended Stay**. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for inpatient days in excess of the initial length of stay or previously approved extended stay.~~ ~~(3-17-22)~~

**703. ~~INPATIENT~~ BEHAVIORAL HEALTH SERVICES: PROCEDURAL REQUIREMENTS.**

~~**01. Prior Authorization**. Some services may require a prior authorization from the Department, or its designee. The Department will set documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. Requests for prior authorization must include:~~ ~~(3-17-22)~~

~~**a.** Diagnosis; and~~ ~~(3-17-22)~~

~~**b.** Summary of present medical findings including symptoms, complaints and complications indicating the need for admission; and~~ ~~(3-17-22)~~

~~**c.** Medical history; and~~ ~~(3-17-22)~~

~~**d.** Mental and physical functional capacity; and~~ ~~(3-17-22)~~

~~c. Prognosis.~~ ~~(3-17-22)~~

~~02. Individual Plan of Care -- Content. The individual plan of care is a written plan developed for the participant upon admission. The objective of the plan is to improve their condition to the extent that acute psychiatric care is no longer necessary. It must be developed by an interdisciplinary team as defined in Subsection 703.03 of this rule. The plan of care must be implemented within seventy-two (72) hours of admission, and reviewed at least every three (3) days. The individual plan of care must contain:~~ ~~(3-17-22)~~

~~a. A diagnostic evaluation that includes examination of the medical, behavioral, and developmental aspects of the participant's situation and reflects the medical necessity for in-patient care; and~~ ~~(3-17-22)~~

~~b. Treatment objectives related to conditions that necessitated the admission; and~~ ~~(3-17-22)~~

~~c. An integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the participant), and experiences designed to meet the objectives; and~~ ~~(3-17-22)~~

~~d. A discharge plan designed to achieve the participant's discharge at the earliest possible time that includes plans for coordination of community services to ensure continuity of care with the participant's family, school, and community upon discharge.~~ ~~(3-17-22)~~

~~03. Individual Plan of Care -- Interdisciplinary Team. The individual plan of care must be developed by an interdisciplinary team capable of assessing the participant's immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the participant's family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include at a minimum:~~ ~~(3-17-22)~~

~~a. One (1) of the following:~~ ~~(3-17-22)~~

~~i. A board-certified psychiatrist; or~~ ~~(3-17-22)~~

~~ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or~~ ~~(3-17-22)~~

~~iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed clinical professional counselor; and~~ ~~(3-17-22)~~

~~b. One (1) of the following:~~ ~~(3-17-22)~~

~~i. A licensed, clinical or master's social worker; or~~ ~~(3-17-22)~~

~~ii. A registered nurse with specialized training or one (1) year's experience in treating individuals with behavioral health needs; or~~ ~~(3-17-22)~~

~~iii. A licensed occupational therapist who has had specialized training or one (1) year of experience in treating individuals with behavioral health needs,~~ ~~(3-17-22)~~

~~c. The participant and their parents, legal guardians, or others into whose care they will be released after discharge.~~ ~~(3-17-22)~~

**01. Enrollment**. Providers will enroll in the IBHP with the contractor and meet both the credentialing and quality assurance guidelines of the contractor. ( )

**02. Administer IBHP**. The contractor is responsible for administering the IBHP, including: eligibility verification, management of behavioral health service provision, behavioral health claims processing, payments to providers, data reporting, utilization management, and customer service. ( )

**03. Authorization**. The contractor is responsible for authorization of covered behavioral health

services that require prior authorization. ( )

**04. Complaints, Grievances, and Appeals**. Complaints, grievances, and appeals are handled between the contractor and the Department in compliance with state and federal requirements. Participants will utilize the complaint, grievance, and appeal process required by the contractor prior to initiating an administrative appeal with the Department. ( )

**704. ~~INPATIENT~~ BEHAVIORAL HEALTH SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. All Services**. IBHP services are delivered by network providers who are enrolled with the contractor and meet reimbursement, quality, and utilization standards. All behavioral health service providers are subject to the limitations of practice imposed by state law, federal regulations, and by the various state boards that regulate professional competency requirements, and in accordance with applicable Department rules. The contractor will enter into agreements with enrolled providers to provide the services under the IBHP. ( )

**0~~1~~2. ~~Provider Qualifications~~Inpatient Services**. Inpatient hospital psychiatric services must be provided under the direction of a physician in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and licensed by the state ~~of Idaho or the state~~ in which they provide services. To provide services beyond emergency medical screening and stabilization treatment, the hospital must have a separate psychiatric unit with staff qualified to provide psychiatric services. General hospitals licensed to provide services in their state, but are not JCAHO certified, may not bill for psychiatric services beyond emergency screening and stabilization. All inpatient services must comply with 42 CFR 456 when applicable. ~~(3-17-22)~~( )

~~**02. Record Keeping**. A written report of each evaluation and the plan of care must be entered into the participant's record at the time of admission or if the participant is already in the facility, immediately upon completion of the evaluation or plan. (3-17-22)~~

~~**03. Utilization Review (UR)**. The facility must have in effect a written utilization review plan that provides for review of each participant's need for the services that the hospital furnishes them. The UR plan must meet the requirements under 42 CFR 456.201 through 456.245. (3-17-22)~~

**705. ~~INPATIENT~~ BEHAVIORAL HEALTH SERVICES: PROVIDER REIMBURSEMENT.**

~~Failure to request a prior authorization, concurrent review, or continued stay review in a timely manner will result in a retrospective review being conducted by the Department. If the retrospective review determines the stay is medically necessary, the Department will assess a penalty to the hospital as specified in Subsection 705.02 of this rule. The admitting physician will be assessed a penalty for failure to request a prior authorization, concurrent review, or continued stay review in a timely manner as specified in Subsection 705.03 of this rule. A physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant is not subject to this penalty. (3-17-22)~~

~~**01. Payment**. Reimbursement for the participant's admission and length of stay is subject to prior authorization, concurrent review, continued stay review, or retrospective review by the Department. The hospital and the participant's physician are responsible for obtaining the required review. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (3-17-22)~~

~~**a.** In reimbursing for inpatient hospital psychiatric services the Department will pay the lesser of customary charges or the established Medicaid semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-17-22)~~

~~**b.** The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric hospital services. (3-17-22)~~

~~**02. Hospital Penalty Schedule**. Failure to request a prior authorization, concurrent review, or continued stay review from the Department in a timely manner will result in the hospital being assessed a penalty as follows. The penalty will be assessed after payment for hospital services for a medically necessary hospital admission. (3-17-22)~~

~~a. A request for a preadmission or continued stay review that is one (1) day late will result in a penalty of two hundred sixty dollars ($260).~~ (3-17-22)

~~b. A request for a preadmission or continued stay review that is two (2) days late will result in a penalty of five hundred twenty dollars ($520).~~ (3-17-22)

~~c. A request for a preadmission or continued stay review that is three (3) days late will result in a penalty of seven hundred eighty dollars ($780).~~ (3-17-22)

~~d. A request for a preadmission or continued stay review that is four days (4) late will result in a penalty of one thousand forty dollars ($1,040).~~ (3-17-22)

~~e. A request for a preadmission or continued stay review that is five (5) or more days late will result in a penalty of one thousand three hundred dollars ($1,300).~~ (3-17-22)

~~03. Physician Penalty Schedule. Failure to request a preadmission review from the Department in a timely manner will result in the admitting physician being assessed a penalty as follows. The penalty will not be assessed against a physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant. The penalty will be assessed after payment for physician services for a medically necessary hospital admission:~~ (3-17-22)

~~a. A request for a preadmission review that is one (1) day late will result in a penalty of fifty dollars ($50).~~ (3-17-22)

~~b. A request for a preadmission review that is two (2) days late will result in a penalty of one hundred dollars ($100).~~ (3-17-22)

~~c. A request for a preadmission review that is three (3) days late will result in a penalty of one hundred fifty dollars ($150).~~ (3-17-22)

~~d. A request for a preadmission review that is four (4) days late will result in a penalty of two hundred dollars ($200).~~ (3-17-22)

~~e. A request for a preadmission review that is five (5) or more days late will result in a penalty of two hundred fifty dollars ($250).~~ (3-17-22)

Provider agreements will include the reimbursement methodology agreed upon by the contractor and Department. The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric services. ( )

**~~706. INPATIENT BEHAVIORAL HEALTH SERVICES: QUALITY ASSURANCE.~~**

~~The policy, rules, and regulations to be followed must be those cited in 42 CFR 456.480 through 42 CFR 456.482.~~ (3-17-22)

**~~707. (RESERVED)~~**

**~~708. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.~~**

~~All participants who are eligible for Medicaid Basic or Enhanced Benchmark State Plan services, except for participants enrolled in the Idaho Medicare Medicaid Coordinated Plan (MMCP), are automatically enrolled in the Idaho Behavioral Health Plan and may access behavioral health services that are determined to be medically necessary.~~ (3-17-22)

**~~709. OUTPATIENT BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.~~**

~~01. Community Based Outpatient Behavioral Health Services. The Community Based Outpatient Behavioral Health Services included in the Idaho Behavioral Health Plan (IBHP) or the Idaho State Plan are covered~~

~~services that evaluate the need for and provide therapeutic and rehabilitative treatment to minimize symptoms of mental illness and substance use disorders and restore independent functioning.~~ ~~(7-1-24)~~

~~**02. Prior Authorization**. Some behavioral health services may require prior authorization from the IBHP contractor.~~ ~~(3-17-22)~~

~~**710. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PROVIDER QUALIFICATIONS.**~~
~~The IBHP services are delivered by network providers who are enrolled with the contractor and meet reimbursement, quality, and utilization standards. All community-based outpatient behavioral health service providers are subject to the limitations of practice imposed by state law, federal regulations, and by the various state boards that regulate professional competency requirements, and in accordance with applicable Department rules. The contractor will enter into agreements with enrolled providers to provide the services under the IBHP. These agreements will include the reimbursement methodology agreed upon by the contractor and Department.~~ ~~(3-17-22)~~

~~**711. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PROCEDURAL REQUIREMENTS.**~~
~~Providers must enroll in the IBHP with the contractor and meet both the credentialing and quality assurance guidelines of the contractor.~~ ~~(3-17-22)~~

~~**01. Administer IBHP**. The contractor is responsible for administering the IBHP, including: eligibility verification, management of behavioral health service provision, behavioral health claims processing, payments to providers, data reporting, utilization management, and customer service.~~ ~~(3-17-22)~~

~~**02. Authorization**. The contractor is responsible for authorization of covered behavioral health services that require authorization prior to claim payment.~~ ~~(3-17-22)~~

~~**03. Complaints, Grievances, and Appeals**. Complaints, grievances, and appeals are handled through a process between the contractor and Department that is in compliance with state and federal requirements. Participants must utilize the complaint, grievance, and appeal process required by the contractor prior to initiating an administrative appeal with the Department.~~ ~~(3-17-22)~~

**7~~12~~06 -- 719. (RESERVED)**

**SUB AREA: HOME HEALTH SERVICES**
**(Sections 720-729)**

**720. HOME HEALTH SERVICES: DEFINITIONS.**

**01. Aggregator**. System that collects provider EVV information from multiple software platforms and standardizes the information in MMIS for EVV data validation. (3-17-22)

~~**02. Claims Adjudication**. The process of determining Medicaid financial responsibility for claims submitted to MMIS.~~ ~~(3-17-22)~~

0~~3~~2. **Electronic Visit Verification (EVV)**. EVV is a software or device(s) that electronically captures information verifying service delivery. (3-17-22)

0~~4~~3. **Home Health Plan of Care**. A written description of home health services to be provided to a participant as defined in IDAPA 16.03.07, "Home Health Agencies." (3-17-22)

0~~5~~4. **Home Health Services**. Home health services and items include nursing services, home health aide services, physical therapy, occupational therapy, speech-language pathology services, audiology services, and medical supplies, equipment, and appliances provided by a qualified professional under a home health plan of care.
~~(3-17-22)~~( )

**721. (RESERVED)**

**722. HOME HEALTH SERVICES: COVERAGE AND LIMITATIONS.**

**01. Settings**. Home health services are covered in a participant's ~~place of~~ residence and any setting in which normal life activities take place. Services are not covered ~~when provided~~ in a: ~~(3-17-22)~~( )

**a.** ~~Hospital~~Any setting in which Medicaid covers inpatient services, including room and board; or ~~(3-17-22)~~( )

~~**b.** Nursing facility; (3-17-22)~~

~~**c**~~**b.** ICF/IID, unless such services are not otherwise required to be provided by the ICF/IID~~; or.~~ ~~(3-17-22)~~( )

~~**d.** Any setting in which Medicaid covers inpatient services, including room and board. (3-17-22)~~

**02. Limitations**. Home health services are limited to one hundred (100) visits per calendar year per person. Provision of durable medical equipment or supplies is not a visit. ~~(3-17-22)~~( )

**03. Requirements**. Services and items ~~must be medically necessary and~~, when appropriate, will meet the requirements for: ~~(3-17-22)~~( )

**a.** Audiology services under Sections 740 through 749 of these rules; (3-17-22)

**b.** Medical supplies, items, and appliances under Sections 750 through 779 of these rules; (3-17-22)

**c.** Physical therapy, occupational therapy, and speech-language pathology services under Sections 730 through 739 of these rules; and (3-17-22)

**d.** Early Periodic, Screening, Diagnosis, and Treatment Services under Sections 880 through 889 of these rules. (3-17-22)

## 723. HOME HEALTH SERVICES: PROCEDURAL REQUIREMENTS.

**01. Orders**. (3-17-22)

**a.** Home health services must be ordered by a ~~physician, or a licensed practitioner of the healing arts~~ provider. Orders ~~must~~ include the provider's National Provider Identifier (NPI), the services or items to be provided, the frequency, and, where applicable, the expected duration of time for which the home health services will be needed. Orders for medical supplies, equipment, and appliances are detailed in Section 753 of these rules. ~~(7-1-24)~~( )

**b.** Home health services required for extended periods must be reordered at least every sixty (60) days for services and annually for medical supplies, equipment, and appliances. (3-17-22)

**02. Face-to-Face Encounter for Home Health Services, Medical Supplies, Equipment, and Appliances**. (3-17-22)

**a.** To initiate home health services, medical supplies, equipment, and appliances, the participant's ~~physician, or a licensed practitioner of the healing arts~~ provider must document a face-to-face encounter related to the primary reason the patient requires home health services. Documentation must indicate the ~~practitioner~~ provider who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME coverage manual. ~~(7-1-24)~~( )

i. For home health services, the face-to-face encounter must have occurred no more than ninety (90) days before, or thirty (30) days after, the start of the home health services. (3-17-22)

ii. For home health medical supplies, equipment, and appliances, the face-to-face encounter must have occurred no more than six (6) months before the start of services. (3-17-22)

**b.** The face-to-face encounter may occur virtually under Subsection 210.09 of these rules. (7-1-24)

**c.** The face-to-face encounter may be performed by participant's ~~physician, including an attending acute or post-acute physician, or licensed practitioner of the healing arts~~ provider. ~~(3-17-22)~~( )

**03. Home Health Plan of Care**. (3-17-22)

**a.** All home health services must be provided under a home health plan of care that is established prior to beginning treatment and must be signed by the ~~licensed, qualified professional~~ provider who established the plan. ~~(3-17-22)~~( )

**b.** All home health plans of care must be reviewed by the ordering provider at least every sixty (60) days for services, and annually for medical supplies, equipment, and appliances. (3-17-22)

**724. ELECTRONIC VISIT VERIFICATION (EVV).**
~~Effective July 1, 2021,~~ Home Health Agencies (HHAs) are required to submit claims using a compliant EVV system as mandated by Section 12006 of the 21st Century Cures Act for all services provided except for the provision of medical supplies and equipment. Providers must: ~~(3-17-22)~~( )

**01. Maintain System**. Maintain an EVV system chosen by their agency that is certified as compliant with the MMIS aggregator, as determined by the Department and/or the MMIS Contractor; (3-17-22)

**02. Document Consent**. Document and retain participant consent for use of electronic verification methods; (3-17-22)

**03. Develop Policies and Procedures**. Develop and maintain policies and procedures outlining agency implementation and use of EVV technology, including strategies for safeguarding of participant information and privacy; and (3-17-22)

**04. Submit EVV Data**. Submit EVV data that captures these six (6) system-validated data elements for services rendered: (3-17-22)

**a.** Date of service; (3-17-22)

**b,** Time the service begins and ends; (3-17-22)

**c.** Individual providing the service; (3-17-22)

**d.** Participant receiving the service; (3-17-22)

**e.** Billable service performed; and (3-17-22)

**f.** Location of service delivery. (3-17-22)

**725. ~~HOME HEALTH SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.~~(RESERVED)**
~~In order to participate as a Home Health Agency (HHA) provider for Medicaid eligible persons, the provider must be licensed as required by the state, and be certified to participate in the Medicare Program. Loss of either state license or Medicare Program certification is cause for termination of Medicaid provider status.~~ ~~(3-17-22)~~

**726. HOME HEALTH SERVICES: PROVIDER REIMBURSEMENT.**

**01. Home Health Services**. Payment for home health services is limited to the services authorized in Sections 720 through 722 of these rules and must not exceed the lesser of reasonable cost as determined by a finalized Medicare cost report or the Medicaid percentile cap. ~~(3-17-22)~~( )

**a.** The Medicaid percentile cap is revised annually, effective at the beginning of each state fiscal year.

Revisions are made using the data from the most recent finalized Medicare cost reports ~~on hand~~ thirty (30) days prior to the effective date. ~~(3-17-22)~~( )

**b.** Payment by the Department for home health will include mileage as part of the cost of the visit. (3-17-22)

**c.** Provider claims for services requiring EVV will include the corresponding EVV data elements listed in Subsection 724.04 of these rules. Provider EVV data will be submitted to the state's aggregator prior to billing claims. Claims corresponding to EVV data submissions are subject to a quality review in accordance with Subsection 210.10 of these rules. (3-17-22)

**d.** If a person is eligible for Medicare, all services ordered by the ~~physician or licensed practitioner of the healing arts~~ provider will be purchased by Medicare, except for the deductible and co-insurance amounts that the Department will pay. ~~(3-17-22)~~( )

**02. Medical Supplies, Equipment, and Appliances**. Payment for medical supplies, equipment, and appliances is detailed in Section ~~755~~ 230 of these rules. ~~(3-17-22)~~( )

**727. -- 729. (RESERVED)**

## SUB AREA: THERAPY SERVICES
## (Sections 730-739)

**730. THERAPY SERVICES: DEFINITIONS.**
For the purposes of these rules, the following terms are used as defined below: (3-17-22)

**01. Duplicate Services**. Services are considered duplicate: (3-17-22)

**a.** When participants receive any combination of physical therapy, occupational therapy, or speech-language pathology services with treatments, evaluations, treatment plans, or goals that are not separate and unique to each service provided; or (3-17-22)

**b.** When more than one (1) type of therapy is provided at the same time. (3-17-22)

**02. Feeding Therapy**. ~~Feeding Therapy means t~~Those therapy services necessary for the treatment of feeding disorders. Feeding disorders include problems gathering food and getting ready to suck, chew, or swallow it. ~~(3-17-22)~~( )

**03. Maintenance Program**. A program established by a therapist that requires the skills of a therapist or therapy professional and consists of activities and mechanisms to assist a participant in maximizing or maintaining the progress they have made during therapy or to prevent or slow further deterioration due to a disease or illness. (3-17-22)

**04. Occupational Therapy Services**. Therapy services that: (3-17-22)

**a.** Are ~~provided~~ within the scope of practice of licensed occupational therapy professionals; ~~(3-17-22)~~( )

**b.** Are necessary for the evaluation and treatment of impairments, functional disabilities, or changes in physical function and health status; and (3-17-22)

**c.** Improve the individual's ability to perform those tasks required for independent functioning. (3-17-22)

**05. Physical Therapy Services**. Therapy services that: (3-17-22)

**a.** Are ~~provided~~ within the scope of practice of licensed physical therapy professionals;

~~(3-17-22)~~( )

**b.** Are necessary for the evaluation and treatment of physical impairment or injury by the use of therapeutic exercise and the application of modalities that are intended to restore optimal function or normal development; and (3-17-22)

**c.** Focus on the rehabilitation and prevention of neuromuscular, musculoskeletal, integumentary, and cardiopulmonary disabilities. (3-17-22)

**06. Speech-Language Pathology Services**. Therapy services that are: (3-17-22)

**a.** ~~Provided w~~Within the scope of practice of licensed speech-language pathologists; and ~~(3-17-22)~~( )

**b.** Necessary for the evaluation and treatment of speech and language disorders that result in communication disabilities; or (3-17-22)

**c.** Necessary for the evaluation and treatment of swallowing disorders (dysphagia), regardless of the presence of a communication disability. (3-17-22)

**07. Therapeutic Procedures**. Therapeutic procedures are the application of clinical skills, services, or both, that attempt to improve function. (3-17-22)

**08. Therapist**. An individual licensed by the appropriate state licensing board as an occupational therapist, physical therapist, or speech-language pathologist. (3-17-22)

**09. Therapy Professional**. An individual licensed by the appropriate state licensing board as an occupational therapist or occupational therapist assistant, physical therapist or physical therapist assistant, or speech-language pathologist. (3-17-22)

**10. Therapy Services**. Occupational therapy, physical therapy, and speech-language pathology services are all considered to be therapy services. These services are ordered by the participant's ~~attending physician, nurse practitioner, or physician assistant~~ provider as part of a plan of care. ~~(3-17-22)~~( )

**11. Treatment Modalities**. A treatment modality is any physical agent applied to produce therapeutic changes to biological tissue, including the application of thermal, acoustic, light, mechanical or electrical energy. (3-17-22)

**731. THERAPY SERVICES: PARTICIPANT ELIGIBILITY.**
To be eligible for therapy services, a participant must be eligible for Medicaid benefits and must have: (3-17-22)

**01. Order**. A ~~physician or licensed practitioner of the healing arts~~ provider order for therapy services; and ~~(3-17-22)~~( )

**02. A Therapy Evaluation Showing Need**. A therapy evaluation of the participant showing a need for therapy due to a functional limitation, a loss or delay of skill, or both; and (3-17-22)

**03. A Therapy Evaluation Establishing Participant Benefit**. A therapy evaluation establishing that the participant will benefit and demonstrate progress as a result of the therapy services. (3-17-22)

**732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.**
Therapy services are covered under these rules when delivered by a therapy professional and provided by one (1) of the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, school-based services, independent practitioners, and home health agencies. ~~Therapy services provided by a home health agency under a home health plan of care must meet the requirements under Sections 730 through 739 of these rules, and the requirements under Sections 720 through 729 of these rules.~~
~~(7-1-24)~~( )

**01. Service Description**: **Occupational Therapy and Physical Therapy**. Modalities, therapeutic procedures, tests, and measurements as described in the Idaho Medicaid Provider Handbook are covered with the following limitations: (3-17-22)

**a.** Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (3-17-22)

**b.** Any CPT procedure code that falls under the heading of either, "Active Wound Care Management," or "Tests and Measurements," requires the therapist to have direct, one-to-one (1:1) patient contact. (3-17-22)

**c.** The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a ~~physician, nurse practitioner, or PA~~ provider. ~~(7-1-24)~~( )

**d.** Any assessment provided under the heading "Orthotic Management and Prosthetic Management" must be completed by the therapist. (3-17-22)

**e.** The services of occupational or physical therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, or take responsibility for the service. The therapist has full responsibility for the service provided. (3-17-22)

**02. Service Description: Speech-Language Pathology**. Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology aides and assistants are considered unskilled services, and will be denied as not medically necessary ~~if they are billed as speech-language pathology services~~. ~~(3-17-22)~~( )

**03. Non-Covered Services: Occupational Therapy, Physical Therapy, and Speech-Language Pathology**. (3-17-22)

**a.** Continuing services for participants who do not exhibit the capability to achieve measurable improvement and who do not meet the criteria for a maintenance program. (3-17-22)

**b.** Services that address developmentally acceptable error patterns. (3-17-22)

**c.** Services that do not require the skills of a therapy professional. (3-17-22)

**d.** Massage, work hardening, and conditioning. (3-17-22)

~~**e.** Services not medically necessary, under Section 011 of these rules. (7-1-24)~~

~~**f.** Duplicate services, under Section 730 of these rules. (7-1-24)~~

~~**g**~~**e.** Acupuncture (with or without electrical stimulation). (3-17-22)

~~**h**~~**f.** Biofeedback, unless provided to treat urinary incontinence. (3-17-22)

~~**i.** Services that are experimental or investigational. (7-1-24)~~

~~**j.** Vocational Program. (3-17-22)~~

**04. Service Limitations**. (3-17-22)

**a.** Physical therapy (PT) and speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual

Medicare caps. The Department may allow additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (3-17-22)

**b.** Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may allow additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (3-17-22)

**c.** Exceptions to service limitations. (3-17-22)

~~i. Therapy provided by home health agencies is subject to the limitations on home health services under Section 722 of these rules.~~ ~~(7-1-24)~~

i~~i~~. Therapy provided through school-based services or the Idaho Infant Toddler Program is not included in the service limitations under Subsection 732.04 of this rule. (3-17-22)

~~iii. Therapy provided to EPSDT participants under the age of twenty one (21) under the EPSDT requirements in Sections 881 through 883 of these rules, and Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary.~~ ~~(7-1-24)~~

**d.** Feeding therapy services are covered for children with a diagnosed feeding disorder that results in a clinically significant deviation from normal childhood development. The provider of feeding therapy is an occupational therapist or speech therapist with training specific to feeding therapy. (3-17-22)

**e.** Maintenance therapy is covered when an individualized assessment of the participant's condition demonstrates that skilled care is required to carry out a safe and effective maintenance program. (3-17-22)

**f.** Virtual care modalities are covered to the extent they are allowed under the rules of the applicable board of licensing. The Department will define limitations on virtual care in the Idaho Medicaid ~~p~~Provider ~~h~~Handbook ~~to promote quality services and program integrity~~. ~~(7-1-24)~~( )

**733. THERAPY SERVICES: PROCEDURAL REQUIREMENTS.**
The Department will pay for therapy services rendered by a therapy professional if such services are ordered by a ~~physician, nurse practitioner, or PA~~ provider as part of a plan of care. ~~(7-1-24)~~( )

**01. Orders**. (3-17-22)

~~**a.** All therapy must be ordered by a physician, nurse practitioner, or PA.~~ ~~(7-1-24)~~

~~**b.**~~**a.** If services are required for extended periods, they must be reordered as necessary, but at least every ninety (90) days for all participants with the following exceptions: (7-1-24)

i. Therapy provided by home health agencies must be included in the home health plan of care and be reordered at least every sixty (60) days. (3-17-22)

ii. Therapy for individuals with long-term medical conditions, as documented by ~~physician, nurse practitioner, or PA~~ a provider, must be reordered at least every three hundred sixty-five (365) days. ~~(7-1-24)~~( )

~~**c.**~~**b.** Therapy services provided under a home health plan of care must comply with the order requirements in Section 723 of these rules. (3-17-22)

**02. Level of Supervision**. Supervision of physical therapist assistants and occupational therapist assistants by the physical therapist or occupational therapist must be done under rules of the applicable licensure board. (7-1-24)

~~**03. Face-to-Face Encounter for Home Health Therapy Services**. Therapy services provided under a home health plan of care must comply with requirements in Subsection 723.02 of these rules.~~ ~~(7-1-24)~~

**043.** **Therapy Plan of Care**. All therapy services must be provided under a therapy plan of care that is based on an evaluation and is established prior to beginning treatment. (3-17-22)

**a.** The plan of care must be signed by the person who established the plan, and sent to the ordering provider within thirty (30) days of the evaluation to continue therapy services. (7-1-24)

**b.** The plan of care must be consistent with the therapy evaluation and contain: (7-1-24)

i. Diagnoses; (3-17-22)

ii. Treatment goals that are measurable and pertain to the identified functional impairment(s); and (3-17-22)

iii. Type, frequency, and duration of therapy services. (3-17-22)

**c.** Therapy services provided under a home health plan of care must comply with the home health plan of care requirements in Section 723 of these rules. (3-17-22)

~~**734. THERAPY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~
~~The following providers are qualified to provide therapy services as Medicaid providers.~~ ~~(3-17-22)~~

~~**01. Occupational Therapist, Licensed**. A person licensed to conduct occupational therapy assessment and therapy according to the regulations in the state where the services are provided.~~ ~~(3-17-22)~~

~~**02. Physical Therapist, Licensed**. A person licensed to conduct physical therapy assessments and therapy according to the regulations in the state where the services are provided.~~ ~~(3-17-22)~~

~~**03. Speech-Language Pathologist, Licensed**. A person licensed to conduct speech language assessments and therapy according to the regulations in the state where the services are provided who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language, and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment.~~ ~~(3-17-22)~~

**734. (RESERVED)**

**735. THERAPY SERVICES: PROVIDER REIMBURSEMENT.**

**01.** **Payment for Therapy Services**. The payment for therapy includes the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the participant for the use of such equipment. (3-17-22)

**02.** **Payment Procedures**. Payment procedures are as follows: (3-17-22)

**a.** Therapy provided by home health agencies will be paid at a per visit rate as described in Section 725 of these rules and in accordance with IDAPA 16.03.07, "Home Health Agencies." (3-17-22)

**b.** Therapists enrolled with Medicaid as independent ~~practitioners~~ providers and licensed by the appropriate state licensing board will be reimbursed on a fee-for-service basis. ~~Only those independent practitioners who have been enrolled as Medicaid providers can bill the Department directly for their services.~~ A therapy assistant cannot bill Medicaid directly. ~~The maximum fee will be based upon the Department's fee schedule, available from the central office for the Division of Medicaid.~~ ~~(3-17-22)~~( )

**c.** Therapy rendered on-site to hospital inpatients or outpatients will be paid at a rate not to exceed the payment determined as reasonable cost using Title XVIII (Medicare) standards and principles. (3-17-22)

**d.** Payment for therapy services rendered to participants in long-term care facilities is included in the facility reimbursement as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-17-22)

**e.** Payment for therapy services rendered to participants in school-based services is described in Section 855 of these rules. (3-17-22)

**736. THERAPY SERVICES: QUALITY ASSURANCE ACTIVITIES.**

**01. Unreimbursable Services and Penalties**. Therapy services ~~that are not medically necessary or that are not specifically covered by these rules are not reimbursable, and if paid~~ are subject to recoupment and penalties under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." ~~(3-17-22)~~( )

**02. Therapist Conditions and Requirements**. The therapist is required to formulate all therapy interventions in accordance with the applicable licensure rules in IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," or IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," or IDAPA 24.23.01, "Rules of the Speech and Hearing Services Licensure Board," as well as the applicable association's professional Code of Ethics and Standards supporting best practice. (3-17-22)

**03. Documentation**. (3-17-22)

**a.** The provider must maintain financial and other records in sufficient detail to allow the Department to audit them as described in Section 305 of these rules. (3-17-22)

**b.** The following documentation must be maintained in the files of the provider: (3-17-22)

i. ~~Physician, nurse practitioner, or physician assistant~~Provider orders for therapy services; ~~(3-17-22)~~( )

ii. Therapy plans of care; and (3-17-22)

iii. Progress or other notes documenting each assessment, each therapy session, and results of tests and measurements related to therapy services. (3-17-22)

~~**c.** The provider must grant the Department immediate access to all information required to review compliance with these rules, as required in Section 330 of these rules. The absence of such documentation is cause for recoupment of Medicaid payment. (3-17-22)~~

**737. -- 739. (RESERVED)**

**SUB AREA: AUDIOLOGY SERVICES**
**(Sections 740-749)**

**740. AUDIOLOGY SERVICES.**
Audiology services are diagnostic, screening, preventive, or corrective services provided by an audiologist~~. These services must be provided~~, and in accordance with Title 54, Chapter 29, Idaho Code, ~~and~~ require the order of a ~~physician, nurse practitioner, or physician assistant~~ provider. Audiology services do not include equipment needed by the patient such as communication devices or environmental controls. ~~(3-17-22)~~( )

**741. AUDIOLOGY SERVICES: PARTICIPANT ELIGIBILITY.**

~~**01. All Participants.**~~ All participants are eligible to receive diagnostic screening services necessary to obtain a differential diagnosis. ~~(3-17-22)~~

~~**02. Participants Under the Age of 21.**~~ Participants under the age of twenty-one (21) are eligible for all services listed in Section 742 of these rules. ~~(3-17-22)~~( )

**742. AUDIOLOGY SERVICES: COVERAGE AND LIMITATIONS.**
~~All audiology services must be ordered by a physician or non-physician practitioner. The Department~~Medicaid will ~~pay for~~ cover routine audiometric examination and testing once ~~in each~~ per calendar year, and audiometric services

and supplies ~~in accordance with the following guidelines and limitations~~ as follows: ~~(3-17-22)~~( )

**01. Non-Implantable Hearing Aids**. When there is a documented hearing loss that meets the criteria of the Idaho Medicaid Provider Handbook, ~~the Department~~ Medicaid will cover the purchase of non-implantable hearing aids for participants under the age of twenty-one (21) ~~with the following requirements and limitations:~~. ~~(3-17-22)~~( )

~~**a.** Covered services included with the purchase of the hearing aid include proper fitting and refitting of the ear mold or aid, or both, during the first year, instructions related to the aid's use, and extended insurance coverage for two (2) years.~~ ~~(3-17-22)~~

~~**b**~~**a.** The following services may be covered in addition to the purchase of the hearing aid for participants under the age of twenty-one (21): batteries purchased on a monthly basis, follow-up testing, necessary repairs ~~resulting from normal use after the second year~~ not covered by warranty, ~~and~~ the refitting of the hearing aid after the first two (2) years, or additional ear molds every six (6) months. ~~(3-17-22)~~( )

~~**c.** Lost, misplaced, stolen or destroyed hearing aids are the responsibility of the participant. The Department has no responsibility for the replacement of any hearing aid. In addition, the Department has no responsibility for the repair of hearing aids that have been damaged as a result of neglect, abuse or use of the aid in a manner for which it was not intended.~~ ~~(3-17-22)~~

**02. Implantable Hearing Aids**. The Department ~~may~~ covers ~~a~~ surgically implantable hearing aids for participants under the age of twenty-one (21) only when: ~~(3-17-22)~~( )

**a.** There is a documented hearing loss ~~as described in Subsection 742.01 of~~ under this rule; ~~(3-17-22)~~( )

**b.** Non-implantable options have been tried, but ~~have not been~~ are unsuccessful; and ~~(3-17-22)~~( )

**c.** ~~The Department has determined that a~~A surgically implanted hearing aid is determined medically necessary through the prior authorization ~~process. The Department will consider the guidelines of private and public payers, evidence-based national standards or medical practice, and the medical necessity of each participant's case~~. ~~(3-17-22)~~( )

**03. Provider Documentation Requirements**. ~~The~~ Documentation of the following ~~information~~ must ~~be documented and~~ be kept on file by the provider: ~~(3-17-22)~~( )

**a.** The participant's diagnosis; (3-17-22)

**b.** The results of the basic comprehensive audiometric exam that include pure tone, air and bone conduction, speech reception threshold, most comfortable loudness, discrimination and impedance testing; and (3-17-22)

**c.** The brand name and model type of the hearing aid needed. (3-17-22)

**04. Allowance to Waive Impedance Test**. The Department will allow a medical doctor to waive the impedance test based on their documented judgment. (3-17-22)

## 743. AUDIOLOGY SERVICES: PROCEDURAL REQUIREMENTS.

**01. Audiology Examinations**. Basic audiometric testing by licensed audiologists or ~~licensed physicians~~ providers will be covered ~~without prior approval~~. ~~(3-17-22)~~( )

**02. Additional Testing**. Any hearing testing beyond the basic comprehensive audiometry and impedance testing must be ordered in writing before the testing is done and kept on file by the provider. (3-17-22)

## ~~744. AUDIOLOGY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.~~

~~The following are qualified to provide audiology services as Medicaid providers:~~ ~~(3-17-22)~~

~~**01. Audiologist, Licensed**. A person licensed to conduct hearing assessment and therapy, according to the regulations in the state where the services are provided, who meets the requirements of 42 CFR 440.110(c)(3).~~ ~~(3-17-22)~~

~~**02. Speech-Language Pathologist, Licensed**. A person licensed to conduct speech-language assessment and therapy according to the regulations in the state where the services are provided, who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment.~~ ~~(3-17-22)~~

**744. (RESERVED)**

**745. AUDIOLOGY SERVICES: PROVIDER REIMBURSEMENT.**

**01. Payment Procedures**. ~~The following procedures must be followed when billing the Department:~~ ~~(3-17-22)~~( )

~~**a.** The Department will only pay the hearing aid provider for an eligible Medicaid participant if a properly completed claim is submitted to the Department within the one (1) year billing limitation.~~ ~~(3-17-22)~~

~~**b.** Payment will be based upon the Department's fee schedule in accordance with Section 230 of these rules).~~ ~~(3-17-22)~~

**02. Limitations**. The following limitations apply to audiometric services and supplies: (3-17-22)

~~**a.** Hearing aid selection is restricted to the most cost-effective type and model that meets the participant's medical needs.~~ ~~(3-17-22)~~

~~**b**~~**a.** Follow-up services are included in the purchase of the non-implantable hearing aid for the first two (2) years and one (1) year for implantable hearing aid including ~~repair, servicing and refitting of ear molds~~ proper fitting and refitting of the ear mold or aid, instructions on the aid's use, and extended insurance coverage. ~~(3-17-22)~~( )

~~**e**~~**b.** Providers are required to maintain warranty and insurance information on file on each hearing aid purchased ~~from them by the Department~~ through Medicaid and are responsible for exercising the use of the warranty or insurance during the first year following the purchase of the hearing aid. ~~(3-17-22)~~( )

~~**d**~~**c.** ~~Providers must not bill participants for charges in excess of the fees allowed by the Department for materials and services.~~ Lost, misplaced, stolen, or destroyed hearing aids are the responsibility of the participant. The Department has no responsibility for the repair of hearing aids that have been damaged as a result of neglect, abuse, or use of the aid in a manner for which it was not intended ~~(3-17-22)~~( )

**746. -- 749. (RESERVED)**

**SUB AREA: DURABLE MEDICAL EQUIPMENT AND SUPPLIES**
**(Sections 750-779)**

**750. – 751. (RESERVED)**

~~**751. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PARTICIPANT RESPONSIBILITY.**~~
~~The participant has a responsibility to reasonably protect and preserve equipment issued to them. Replacement of medical equipment or supplies that are lost, damaged or broken due to participant misuse or abuse are the responsibility of the participant.~~ ~~(3-17-22)~~

**752. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: COVERAGE AND LIMITATIONS.**
The Department will purchase, repair, or rent~~, when medically necessary, reasonable and cost-effective,~~ durable

medical equipment (DME) and medical supplies that are suitable for use in any setting in which normal life activities take place. ~~Medical supplies, equipment, and appliances provided by a home health agency under a home health plan of care must meet the requirements found in Sections 750 through 779 of these rules and the requirements found in Sections 720 through 729 of these rules.~~ ~~(3-17-22)~~( )

**01. Medical Necessity Criteria ~~— Equipment and Supplies~~**. Department standards for medical necessity and coverage limitations are those national standards set by Centers for Medicare and Medicaid Services (CMS) in the CMS/Medicare DME coverage manual. Exceptions ~~to Medicare coverage~~ are described in the Idaho Medicaid Provider Handbook available at: www.idmedicaid.com. ~~Items for convenience, comfort, or cosmetic reasons are not covered.~~ ~~(3-17-22)~~( )

**02. Prior Authorization ~~— Equipment and Supplies~~**. ~~(3-17-22)~~( )

**a.** The Department will specify in the Idaho Medicaid Provider Handbook, which ~~durable medical equipment~~ DME and medical supplies require prior authorization by the Department. ~~(3-17-22)~~( )

~~**b.** Each request for prior authorization must include all medical necessity documentation required under Section 753 of these rules.~~ ~~(3-17-22)~~

**03. Coverage Conditions ~~— Equipment and Supplies~~**. ~~(3-17-22)~~( )

~~**a.** Medical equipment and supplies are subject to coverage limitations in the CMS/Medicare DME coverage manual. Exceptions to these coverage conditions and coverage conditions for medically necessary items not included in that manual are described in the Idaho Medicaid Provider Handbook available at: www.idmedicaid.com. Exceptions must be established using evidence-based or best clinical practice standards as determined by the Department.~~ ~~(3-17-22)~~

~~**b**~~**a.** The Department will purchase no more than three (3) months of necessary medical supplies in a three (3) month period ~~for the treatment or amelioration of a medical condition identified by the attending physician or non-physician practitioner~~. Supplies in excess of coverage limitations must be prior authorized by the Department. ~~(3-17-22)~~( )

## 753. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PROCEDURAL REQUIREMENTS.

**01. Orders**. (3-17-22)

**a.** All ~~medical supplies,~~ equipment~~,~~ and ~~appliances~~ medical supplies must be ordered by a ~~physician or non-physician practitioner acting~~ provider within the scope of their licensure. ~~Such o~~Orders must meet the requirements in the CMS/Medicare DME coverage manual~~.~~, be kept on file with the DME provider, and include: ~~(7-1-24)~~( )

i. The participant's medical diagnosis that requires the use of the medical equipment or supplies; and ( )

ii. How long the item will be necessary and frequent of use, and for (PRN) orders the conditions for use. ( )

**b.** If medical equipment and supplies ~~are required for extended periods, these~~ must be reordered ~~as necessary, but~~ at least annually~~, for all participants~~. ~~(7-1-24)~~( )

~~**c.** The following information to support the medical necessity of the item(s) must be included in the order and accompany all requests for prior authorization, or be kept on file with the DME provider for items that do not require prior authorization:~~ ~~(3-17-22)~~

~~i. The participant's medical diagnosis, including current information on the medical condition that requires the use of the supplies or medical equipment, or both;~~ ~~(3-17-22)~~

~~ii. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders must include the conditions for use and the expected frequency; (3-17-22)~~

~~iii. For medical equipment, a full description of the equipment needed. All modifications or attachments to the basic equipment must be supported; (3-17-22)~~

~~iv. For medical supplies, the type and quantity of supplies necessary must be identified; and (3-17-22)~~

**02. Documentation**. ( )

~~v~~**a.** Documentation of the participant's medical necessity for the item~~, that meets coverage criteria~~ will be kept on file by the DME vendor. ~~(3-17-22)~~( )

~~vi~~**b.** Additional information may be requested by the Department ~~for specific equipment or supplies~~. ~~(3-17-22)~~( )

~~**02. Face-to-Face Encounter for Home Health Medical Supplies, Equipment, and Appliances**. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with requirements in Subsection 723.02 of these rules. (7-1-24)~~

~~**03. Plan of Care Requirements for Home Health Medical Supplies, Equipment, and Appliances**. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with requirements in Subsection 723.03 of these rules. (7-1-24)~~

~~**04. Prior Authorizations**. (3-17-22)~~

~~**a.** Prior authorization means a written, faxed, or electronic approval from the Department that permits payment or coverage of a medical item or service that is covered only by such authorization. (3-17-22)~~

~~i. Medicaid payment will be denied for the medical item or service or portions thereof that were provided prior to the submission of a valid prior authorization request. An exception may be allowed on a case-by-case basis, when events beyond the provider's control prevented the request's submission. (7-1-24)~~

~~ii. The provider may not bill the Medicaid participant for services not reimbursed by Medicaid solely because the authorization was not requested or obtained in a timely manner. (7-1-24)~~

~~**b.** An item or service will be deemed prior approved where the individual to whom the service was provided was not eligible for Medicaid when the service was provided, but was subsequently found eligible under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled," or IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and the medical item or service provided is approved by the Department by the same guidance that applies to other prior authorization requests. (7-1-24)~~

~~**c.** A valid prior authorization request is a written, faxed, or electronic request from a provider for services that contains all information and documentation as required by these rules to justify the medical necessity, amount of and duration for the item or service. (7-1-24)~~

~~**05. Notification of Changes to Prior Authorization Requirements**. The Department will provide sixty (60) days notice of any substantive changes to requirements for prior authorization in its provider handbook. The Department will provide a method to allow providers to provide input and comment on proposed changes. (7-1-24)~~

**0~~6~~3. Equipment ~~Rental -- Purchase~~ Procedures**. ~~Unless~~ When specified by the Department, ~~all~~ equipment must be rented ~~except when it would be more cost effective to purchase it. Rentals are~~ and subject to the following guidelines: ~~(3-17-22)~~( )

**a.** Rental payments, including intermittent payments, are ~~to be automatically~~ applied to the purchase of the equipment. ~~(3-17-22)~~( )

**b.** The Department may choose to continue to rent certain equipment without purchasing it. ~~Such items include apnea monitors, ventilators, and other respiratory equipment.~~ ~~(3-17-22)~~( )

**c.** The ~~total~~ monthly rental cost of a DME item ~~must~~ is not to exceed one-tenth (1/10) of the ~~total~~ purchase price ~~of the item~~. ~~(3-17-22)~~( )

~~**07. Notice of Decision.** A Notice of Decision approving or denying a requested item will be issued to the participant by the Department. The participant has twenty-eight (28) days from the date of the denial to request a fair hearing on the decision. Hearings will be conducted under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-24)~~

**754. (RESERVED)**

**755. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PROVIDER REIMBURSEMENT.**

**01. Items Included in Per Diem Excluded**. No payment will be made for any ~~participant's DME or medical supplies that are~~ items included in the per diem payment while such an individual is an inpatient in a hospital nursing facility or ICF/IID. ~~(3-17-22)~~( )

**02. Least Costly Limitation**. ~~When multiple features, models or brands of equipment or supplies are available, c~~Coverage will be limited to the least costly version that will reasonably and effectively meet the minimum requirements of the individual's medical needs. ~~(3-17-22)~~( )

**03. Billing Procedures**. The Department will provide billing instructions to providers of DME/medical supplies. ~~When prior authorization by the Department is required, the authorization number must be included on the claim form.~~ ~~(3-17-22)~~( )

~~**04. Fees and Upper Limits**. The Department will reimburse according to Section 230 of these rules. (3-17-22)~~

**0~~5~~4. Date of Service**. Unless specifically authorized by the Department, the date of services for ~~durable medical equipment~~ DME and supplies is the date of delivery ~~of the equipment or supply(s)~~ for items provided in-person or the date of shipment for supplies mailed through a third-party courier. ~~(3-17-22)~~( )

~~**06. Manually Priced Codes**. For codes that are manually priced, including miscellaneous codes, a copy of the manufacturer's suggested retail pricing (MSRP) or an invoice or quote from the manufacturer is required. Reimbursement will be seventy five percent (75%) of MSRP. If the pricing documentation is the invoice, reimbursement will be at cost plus ten percent (10%), plus shipping, if that documentation is provided. (3-17-22)~~

**0~~7~~5. Warranties and Cost of Repairs**. No reimbursement will be made for the cost of repairs (materials or labor, or both) covered under the manufacturer's warranty. The date of purchase and the warranty period must be kept on file by the DME vendor. The following warranty periods are required to be provided on equipment purchased by the Department: (3-17-22)

**a.** A power drive wheelchair must have a minimum one (1) year warranty period; (3-17-22)

**b.** An ultra-light or high-strength lightweight wheelchair must have a lifetime warranty period on the frame and crossbraces; (3-17-22)

~~**c. All other wheelchairs must have a minimum one (1) year warranty period; (3-17-22)**~~

**~~d~~c.** All electrical components and new or replacement parts must have a minimum six (6) month warranty period; (3-17-22)

**~~e~~d.** All other DME not specified ~~in Subsections 755.07.a. through 755.07.d. of~~ under this rule must have a minimum one (1) year warranty period; ~~(3-17-22)~~( )

~~f~~c. If the manufacturer denies the warranty due to user misuse or abuse, ~~or both,~~ that information must be forwarded to the Department at the time of the request for repair or replacement; ~~(3-17-22)~~( )

~~g~~f. The monthly rental payment must include a full service warranty. All routine maintenance, repairs, and replacement of rental equipment are the responsibility of the provider. (3-17-22)

**756. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: QUALITY ASSURANCE.**
The use or provision of DME/medical supply items to an individual other than the participant for which such items were ordered is prohibited. ~~The provision of DME/medical supply items that is not supported by required medical necessity documentation is prohibited and subject to recoupment. Violators are subject to penalties for program fraud or abuse, or both, that will be enforced by the Department.~~ The Department has no obligation to repair or replace any piece of ~~durable medical equipment~~ DME that has been damaged, defaced, lost, or destroyed as a result of neglect, abuse, or misuse ~~of the equipment. Participants suspected of the same will be reported to the Surveillance and Utilization Review (SUR/S) committee~~. ~~(3-17-22)~~( )

**757. -- 770. (RESERVED)**

**771. PROSTHETIC AND ORTHOTIC SERVICES: PARTICIPANT ELIGIBILITY.**
The ~~Medical Assistance Program~~ Department will purchase or repair~~, or both,~~ medically necessary prosthetic and orthotic devices and related services ~~that artificially replace a missing portion of the body or support a weak or deformed portion of the body~~ within the established limitations ~~established by the Department~~. ~~(3-17-22)~~( )

**772. PROSTHETIC AND ORTHOTIC SERVICES: COVERAGE AND LIMITATIONS.**

**01. Program Requirements**. The following program requirements ~~will be~~ are applicable for all prosthetic and orthotic devices or services ~~purchased by the Department~~: ~~(3-17-22)~~( )

**a.** A temporary lower limb prosthesis will be purchased when documented by the ~~attending physician or non-physician practitioner~~ ordering provider that it is in the best interest of the participant's rehabilitation to have a temporary lower limb prosthesis prior to a permanent limb prosthesis. A new permanent limb prosthesis will only be requested after the residual limb size is considered stable; ~~(3-17-22)~~( )

**b.** A ~~request for a~~ replacement prosthesis or orthotic device must be justified to be the least costly alternative ~~as opposed~~ to repairing or modifying the current ~~prosthesis or orthotic~~ device; ~~(3-17-22)~~( )

**c.** All prosthetic and orthotic devices that require fitting must be provided by a Podiatrist, or an individual ~~who is~~ certified or registered by the American Board for Certification in Orthotics, Prosthetics & Pedorthics (ABC) or the Board of Certification/Accreditation (BOC); ~~(4-6-23)~~( )

**d.** All equipment ~~that is purchased~~ must be new at the time of purchase. Modification to existing prosthetic or orthotic equipment~~, or both,~~ will be covered by the Department; ~~(3-17-22)~~( )

**e.** Prosthetic limbs ~~purchased by the Department~~ must be guaranteed to fit properly for three (3) months from the date of service; ~~therefore,~~ any modifications, adjustments, or replacements within the three (3) months are ~~the responsibility of the provider that supplied the item at no additional cost to the Department or the participant~~ included in the cost of purchase; and ~~(3-17-22)~~( )

**f.** Not more than ninety (90) days may elapse between the ~~time of the~~ order date and date of the prior ~~pre~~authorization request ~~is presented to the Department for consideration~~. ~~(3-17-22)~~( )

**02. Program Limitations**. The following limitations apply to all prosthetic and orthotic services and equipment: (3-17-22)

**a.** No replacement will be allowed for prosthetic or orthotic devices within sixty (60) months of the date of purchase except in cases where there is clear documentation that there has been major physical change to the residual limb~~, and ordered by the attending physician or non-physician practitioner~~; ~~(3-17-22)~~( )

**b.** Refitting, repairs, or additional parts ~~must be~~ are limited to once per calendar year for all prosthetics or orthotics~~, or both,~~ unless ~~it has been~~ documented that a major medical change has occurred to the limb~~, and ordered by the attending physician~~; ~~(3-17-22)~~( )

~~**c.** All refitting, repairs or alterations require preauthorization based on medical justification by the participant's attending physician;~~ ~~(3-17-22)~~

~~**d.** Prosthetic and orthotic devices provided for cosmetic or convenience purposes are not covered by the Department.~~ ~~(3-17-22)~~

~~**e**~~**c.** Electronically powered or enhanced ~~prosthetic~~ devices are not covered; ~~(3-17-22)~~( )

~~**f**~~**d.** The Department will only authorize corrective shoes or modification to an existing shoe ~~owned by the participant~~ when ~~they are~~ attached to an orthosis or prosthesis or when ~~specially constructed~~ to provide for a totally or partially missing foot; ~~(3-17-22)~~( )

~~**g**~~**e.** Shoes and accessories ~~such as mismatch shoes, comfort shoes following surgery, shoes to support an overweight individual, or shoes used as bandage following foot surgery, arch supports, foot pads, metatarsal head appliances or foot supports~~ are not covered except when provided for the treatment of diabetes; and ~~(3-17-22)~~( )

~~**h**~~**f.** Corsets ~~are not a benefit nor are~~ and canvas braces with plastic or metal bones are not a benefit. ~~However, s~~Special braces enabling a participant to ambulate will be covered when ~~the attending physician~~ a provider documents ~~that~~ the only other method of treatment for this condition would be ~~application of~~ a cast. ~~(3-17-22)~~( )

**773. PROSTHETIC AND ORTHOTIC SERVICES: PROCEDURAL REQUIREMENTS.**
Prosthetic and orthotic devices and services ~~will be paid for~~ are covered only if prescribed by a ~~physician or non-physician practitioner~~ provider. The following information must be included in the order and kept on file by the provider: ~~(3-17-22)~~( )

**01. Full Description of the Services Requested**. (3-17-22)

**02. Number of Months the Equipment Will Be Needed and the Participant's Prognosis**. (3-17-22)

**03. Participant's Medical Diagnosis and Condition**. The participant's medical diagnosis and the condition that requires the use of the prosthetic or orthotic services~~, or both, supplies, equipment~~ or modifications~~, or both; and~~. ~~(3-17-22)~~( )

~~**04. Modifications to the Prosthetic or Orthotic Device**. All modifications must be supported by the attending physician's description on the prescription.~~ ~~(3-17-22)~~

~~**774. (RESERVED)**~~

~~**775. PROSTHETIC AND ORTHOTIC SERVICES: PROVIDER REIMBURSEMENT.**
The Department will reimburse according to Section 230 of these rules.~~ ~~(3-17-22)~~

**776~~4~~. -- 779. (RESERVED)**

**SUB AREA: VISION SERVICES**
**(Sections 780-789)**

**780. -- 781. (RESERVED)**

**782. VISION SERVICES: COVERAGE AND LIMITATIONS.**
The Department will pay for vision services and supplies ~~in accordance with the guidelines and limitations~~ as listed below. ~~(3-17-22)~~( )

**01. Eye Examinations**. ~~(3-17-22)~~

~~**a.**~~ The Department will pay ~~participating physicians and optometrists~~ providers for one (1) eye examination during any twelve (12) month period to determine the need for glasses to correct a refractive error. ~~(3-17-22)~~( )

~~**b**~~**02. Eyeglasses and Contacts**. The Department will pay for eyeglasses ~~within Department guidelines~~ following a diagnosis of visual defects and a recommendation that eyeglasses are needed for correction of a refractive error. ~~(3-17-22)~~( )

~~**02**~~**a. ~~Lenses.~~** Lenses~~, single vision or bifocal,~~ will be ~~purchased by the Department not more often than~~ covered once every four (4) years except when there is documentation of a major visual change ~~as defined by the Department~~. ~~(3-17-22)~~( )

~~**a**~~i. Scratch resistant coating is required for all plastic and polycarbonate lenses (3-17-22)

~~**b**~~ii. Payment for tinted lenses will only be made when there is a diagnosis of albinism or in the case of other extreme medical conditions ~~as defined by the Department as~~ defined in the Provider Handbook. Documentation must be kept on file by both the examining and supplying providers. ~~(3-17-22)~~( )

~~**c**~~**b.** ~~All contact lenses require prior authorization by the Department.~~ Contact lenses will be covered for participants only with documentation of: ~~(3-17-22)~~( )

i. A need for correction equal to or greater than plus or minus ten (±10) diopters; or (3-17-22)

ii. An extreme medical condition that does not allow correction through the use of conventional lenses, such as cataract surgery, keratoconus, anisometropia, or other ~~extreme~~ conditions ~~as~~ defined by the Department. ~~(3-17-22)~~( )

~~**03. Replacement Lenses.** Replacement lenses will be purchased for participants under the age of twenty-one (21) prior to the four (4) year limitation only with documentation of a major visual change as defined by the Department in the Idaho Medicaid Provider Handbook. Replacement lenses for participants age twenty-one (21) and older will be purchased when necessary to prevent permanent damage to the eye.~~ ~~(3-17-22)~~

~~**04**~~**c. ~~Frames.~~** Frames~~. will be purchased according to the following guidelines:~~ ~~(3-17-22)~~

~~**a.**~~ One (1) set of frames will be purchased by the Department for eligible participants ~~not more often than~~ once every four (4) years~~;~~ except ~~(3-17-22)~~

~~**b.**~~ ~~W~~when ~~it is documented by the vision provider that there has been a major change in visual acuity~~ receiving new lenses that cannot be accommodated in ~~lenses that will fit in the~~ existing frames~~, new frames also may be authorized~~. ~~(3-17-22)~~( )

~~**05**~~**d. ~~Fitting Fees.~~** Fitting fees ~~for either contact lenses or conventional frames and lenses~~ are covered only when the participant is eligible ~~under the Medicaid program guidelines to receive~~ for the associated supplies ~~associated with the fitting fee~~. ~~(3-17-22)~~( )

**04. Vision Therapy**. Vision therapy is covered for participants between the ages of nine (9) and twenty-one (21) with a diagnosis of convergence insufficiency. ( )

**0~~6~~5. Non-Covered Items**. ~~A Medicaid Provider may receive payment from a Medicaid participant for vision services that are either not covered by the State Plan, or include special features or characteristics that are desired by the participant but are not medically necessary.~~ ~~(3-17-22)~~( )

**a.** ~~Non-covered items include~~ Trifocal lenses, Progressive lenses, photo gray, and tint. ~~(3-17-22)~~( )

**b.** Replacement of broken, lost, or missing glasses is the responsibility of the participant. (3-17-22)

**783. -- 784. (RESERVED)**

**785. VISION SERVICES: PROVIDER REIMBURSEMENT.**
The Department will designate a supplier to provide ~~A~~all eyeglass frames and lenses~~ provided to Medicaid participants and paid for by the Medicaid Program will be purchased from the supplier designated by the Department~~. ~~(3-17-22)~~( )

**786. -- 799. (RESERVED)**

**SUB AREA: DENTAL SERVICES**
**(Sections 800-819)**

**800. DENTAL SERVICES: SELECTIVE CONTRACT FOR DENTAL COVERAGE.**
All participants eligible for Medicaid dental benefits are covered under a selective contract for a dental insurance program called Idaho Smiles at: http://www.healthandwelfare.idaho.gov/Medical/Medicaid/MedicalCare/DentalServices/tabid/696/Default.aspx. (3-17-22)

**801. DENTAL SERVICES: DEFINITIONS.**
For the purposes of dental services covered in Sections 800 through 807 of these rules, the following definitions apply: (3-17-22)

**01. Adults**. ~~A person who is~~ Participants past the month of their twenty-first birthday. ~~(3-17-22)~~( )

**02. Children**. ~~A person~~ Participants from birth through the month of their twenty-first birthday. ~~(3-17-22)~~( )

**03. Idaho Smiles**. A dental insurance program provided to eligible Medicaid participants through a selective contract between the Department and a dental insurance carrier. (3-17-22)

**802. DENTAL SERVICES: PARTICIPANT ELIGIBILITY.**
~~Children and adults eligible for Medicaid~~Participants are eligible for Idaho Smiles dental benefits~~ described in Section 803 of these rules~~. ~~(3-17-22)~~( )

**803. DENTAL SERVICES: COVERAGE AND LIMITATIONS.**
~~Some c~~Covered dental services may be subject to limitations, authorization from the Idaho Smiles contractor or benefit restrictions according to the terms of its contract with the Department, in addition to those specified in these rules. ~~(3-17-22)~~( )

**01. Dental Coverage for Children**. Children are covered for dental services that include preventative screenings, problem-focused and comprehensive exams, diagnostic, restorative, endodontic services (including root canals and crowns), periodontics, prosthodontic, orthodontic treatments, dentures, and oral surgery; (3-17-22)

**02. Dental Limitation for Children**. Orthodontics are limited to children who meet Medicaid eligibility requirements~~ and the Idaho Medicaid Handicapping Malocclusion Index~~ as determined by the State's contractor. ~~(3-17-22)~~( )

**03. Dental Coverage for Adults**. Adults are covered for dental services that include preventative screenings, problem-focused and comprehensive exams, diagnostic, restorative, periodontics, prosthodontic, dentures, oral surgery, and endodontic services with limitations. (3-17-22)

**04. Dental Limitation for Adults**. Root canals and crowns are not covered. (3-17-22)

**804. DENTAL SERVICES: PROCEDURAL REQUIREMENTS.**
Providers must enroll in the Idaho Smiles network with the dental insurance contractor and meet both credentialing and quality assurance guidelines of the contractor. (3-17-22)

**01. Administer Idaho Smiles**. The contractor is responsible for administering the Idaho Smiles program, including dental claims processing, payments to providers, customer service, eligibility verification, and data reporting. (3-17-22)

**02. Authorization**. The contractor is responsible for authorization of covered dental services that require authorization prior to claim payment. (3-17-22)

**03. Grievances**. The contractor is responsible for tracking and reporting all grievances to the State's contract monitor. (3-17-22)

**04. Appeals**. Appeals are handled by a process between the contractor and the Department as specified in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," and in compliance with state and federal requirements. (3-17-22)

**805. DENTAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**
Providers are credentialed by the contractor to ensure they meet licensing requirements of the Idaho Board of Dentistry standards or the applicable state in which services are provided. Providers' duties are based on the contract requirements and are monitored and enforced by the contractor. (3-17-22)

**806. DENTAL SERVICES: PROVIDER REIMBURSEMENT.**
The Idaho Smiles administrator reimburses dental providers on a fee-for-service basis under a Department-approved fee schedule. The State will collaborate with the contractor to establish rates that promote and ensure adequate access to dental services. (3-17-22)

**807. DENTAL SERVICES: QUALITY ASSURANCE.**
Providers are subject to the contractor's Quality Assurance guidelines including monitoring for potential fraud, overutilization, or abuse of Medicaid. The contractor is required to share such potential cases with the Medicaid Fraud Unit as discovered. (3-17-22)

**808. -- 819. (RESERVED)**

**SUB AREA: ESSENTIAL PROVIDERS**
**(Sections 820-859)**

**820. ~~RURAL HEALTH CLINIC~~FQHC AND ~~(~~RHC~~)~~ SERVICES: DEFINITIONS.**

**01. Change in Intensity of Services**. A change in the intensity of services means a change in the quantity and complexity of services delivered that could change the total allowable cost per encounter. This does not include an expansion or remodeling of an existing provider. This may include the addition of new services or the deletion of existing services. ( )

**02. Encounter**. An encounter, for payment purposes, is a face-to-face contact for the provision of medical, mental or dental services between a FQHC or RHC patient and a provider as specified in Subsections 823.01 through 823.15 of these rules. ( )

**03. Federally Qualified Health Centers (FQHCs)**. FQHCs are defined in federal law at 42 USC Section 1369d(1)(2), and 42 USC Section 1395x(aa)(1), and includes community health centers, migrant health centers, providers of care for the homeless, and outpatient health programs or clinics operated by a tribe or tribal organizations under the Indian Self-Determination Act (P.L. 93-638). It also includes clinics that qualify for, but are not actually receiving, grant funds according to Sections 329, 330, or 340 of the Public Health Service Act (42 USC Sections 201, et seq.) that may provide ambulatory services to Medicaid participants. ( )

**04. Medicare Cost Report Period**. The period of time covered by the Medicare-required annual report of cost. ( )

**05. Medicare Economic Index (MEI)**. An annual measure of inflation designed to estimate the

increase in the total cost for the average physician to operate a medical practice, and takes into account cost categories such as a physician's own time, non-physician employee's compensation, rents, and medical equipment. The MEI is used in establishing the annual changes to the payment conversion factors used in the methodology for determining reimbursement rates. ( )

**06.** **~~A~~ Rural Health Clinic (RHC).** An RHC is located in a rural area designated as a physician shortage area, and is neither a rehabilitation agency nor does it primarily provide for the care and treatment of mental diseases. ~~(3-17-22)~~( )

**821. -- 822. (RESERVED)**

**823. ~~RURAL HEALTH CLINIC~~FQHC AND ~~(~~RHC~~)~~ SERVICES: COVERAGE AND LIMITATIONS.** RHC and FQHC services are defined as follows: ~~(3-17-22)~~( )

**01. Physician Services.** ~~Physician services;~~ ~~(3-17-22)~~( )

**~~02. Services and Supplies Incident to a Physician Service~~.** ~~Services and supplies incident to a physician service, which cannot be self administered;~~ ~~(3-17-22)~~

**0~~3~~2. Physician Assistant Services.** ~~Physician assistant services;~~ ~~(3-17-22)~~( )

**0~~4~~3. Nurse Practitioner or Clinical Nurse Specialist Services.** ~~Nurse practitioner or clinical nurse specialist services;~~ ~~(3-17-22)~~( )

**04. Visiting Nurse Services.** Part-time or intermittent nursing care, and related medical services to a home bound individual, when an RHC located in an area with a shortage of home health agencies. ( )

**05. Chiropractor Services.** ( )

**06. Podiatrist Services.** ( )

**0~~5~~7. Clinical Psychologist Services.** ~~Clinical psychologist services;~~ ~~(3-17-22)~~( )

**08. Licensed Social Worker Services.** ( )

**0~~6~~9. Licensed Clinical Social Worker Services.** ~~Clinical social worker services;~~ ~~(3-17-22)~~( )

**10. Licensed Masters Social Worker Services.** ( )

**11. Licensed Professional Counselor Services.** ( )

**12. Licensed Clinical Professional Counselor Services.** ( )

**13. Licensed Marriage and Family Therapist Services.** ( )

**14. Other DOPL Licenses.** Any other behavioral health or substance use disorder license type recognized by the Idaho Division of Occupational and Professional Licensing (DOPL). ( )

**15. Licensed Dentist and Dental Hygienist Services.** ( )

**16. Pharmacist Services.** ( )

**0~~1~~7. ~~Other~~Incidental Services and Supplies.** Services and supplies incident to a ~~nurse practitioner, physician's assistant, clinical psychologist, or clinical social worker~~ provider listed in Subsections 823.01 through 823.15 of these rules as would otherwise be covered by a physician service are part of an encounter; or ~~(3-17-22)~~( )

~~08. Home Health Agency Shortage Area Services. Part-time or intermittent nursing care, and related medical services to a home bound individual, when an RHC located in an area with a shortage of home health agencies.~~ ~~(3-17-22)~~

18. Other Payable Services. Other ambulatory services covered by Medicaid that the FQHC or RHC undertakes to provide, including immunizations. These services are billed separately from an encounter. ( )

**824. -- 825. (RESERVED)**

**826. ~~RURAL HEALTH CLINIC~~FQHC AND ~~(~~RHC~~)~~ SERVICES: REIMBURSEMENT METHODOLOGY.**

**01. Payment**. Payment for F~~ederally~~ Q~~ualified~~ H~~ealth~~ C~~enter~~ and R~~ural~~ H~~ealth~~ C~~linic~~ services must be made in accordance with Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, P.L. 106-554, 42USC Section 1396a(bb), Subsections (1) through (4). ~~(3-17-22)~~( )

**02. FQHC or RHC Encounter**. ~~An encounter, for RHC payment purposes, is a face-to-face contact for the provision of a medical or mental service between a clinic patient and a provider as specified in 823.01 through 823.06 of these rules.~~ Each contact with a separate discipline of health professional (medical, mental or dental), on the same day at the same location, is reimbursed as a separate encounter. All contact with all practitioners within a disciplinary category (medical, mental or dental) on the same day is a single encounter. ~~(3-17-22)~~( )

**a.** ~~Each contact with a separate discipline of health professional (medical or mental) on the same day at the same location is considered a separate encounter.~~Reimbursement for services is limited to one (1) encounter per discipline per participant per day. ~~(3-17-22)~~( )

**b.** ~~Reimbursement for services is limited to two (2) encounters per participant per day.~~An additional encounter may be reimbursed, if the encounter is caused by an illness or injury that occurs later than the first encounter and requires additional diagnosis or treatment. ~~(3-17-22)~~( )

**c.** ~~As an exception to Subsection 826.02.a. of this rule, a second encounter with the same professional on the same day may be reimbursed; or~~The encounter rate does not include drugs for biologicals which cannot be self-administered, long-acting reversible contraception (LARC) or Non-surgical transcervical permanent female contraceptive devices. ~~(3-17-22)~~( )

~~**d.** As an exception to Subsection 826.02.b. of this rule, an additional encounter may be reimbursed, if the encounter is caused by an illness or injury that occurs later in time than the first encounter and requires additional diagnosis or treatment.~~ ~~(3-17-22)~~

~~**e.** A core service ordered by a health professional who did not perform the service but was performed by support staff is considered a single encounter.~~ ~~(3-17-22)~~

~~**f.** Multiple contacts with clinic staff of the same discipline (medical, mental) on the same day related to the same illness or injury are considered a single encounter.~~ ~~(3-17-22)~~

**827. FQHC AND RHC: RATE SETTING METHODOLOGY.**

**01. Prospective Payment System**. ( )

**a.** For rate periods beginning in January, 2001, the Department will establish separate, finalized rates for medical/mental and dental encounters. The Department will prospectively set these finalized encounter rates using the FQHC's medical/mental and dental encounter costs. ( )

**b.** The Department will pay each provider an encounter rate equal to the amount paid in the previous federal fiscal year. The Department will adjust the encounter rate for inflation using the Medicaid Economic Index (MEI), as published by CMS. ( )

**c.** If an out-of-state FQHC becomes an Idaho Medicaid provider and provides less than one hundred (100) Idaho Medicaid encounters or receives less than ten thousand dollars ($10,000) in Idaho Medicaid payments in the first year after entering the program, the Department will deem the FQHC a low utilization provider. The finalized encounter rate for low utilization providers will be the same as the interim encounter rate as defined under these rules. If there is an increase in the number of encounters or the amount of payments over any twelve (12) month Medicare cost report period, the Department reserves the right to audit a low utilization provider's Medicare cost report in order to set a new interim encounter rate as defined under these rules. ( )

**02. New Providers to Idaho Medicaid**. ( )

**a.** If the provider is new, the Department will set the interim encounter rate by referring to the encounter rates paid to other providers in the same or adjacent regional areas with similar caseloads. Regional areas are defined by the Department. If encounter rate information for others in the same or adjacent regional areas with similar caseloads is not available, the Department will set the interim encounter rate using historical cost information. If historical cost information is not available, the Department will use budgeted cost and encounter information submitted by the provider. ( )

**b.** If the provider has been designated as an FQHC or RHC for at least twenty-four (24) consecutive months and provides the historical cost and encounter information for this period to the Department, the Department will use the second full twelve (12) month audited Medicare cost report to calculate a finalized encounter rate. The Department will provide the provider a supplemental information worksheet to complete. This worksheet will be used by the Department to identify dental encounters and other incidental costs related to either medical/mental or dental encounters. ( )

**c.** For both new and existing providers that become Idaho Medicaid providers, the Department will audit the Medicare cost report for the twenty-four (24) consecutive months that represent two (2) complete fiscal years after the FQHC has become a Medicaid provider. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. ( )

**d.** For both new and existing FQHCs that become Idaho Medicaid providers, the Department will adjust the finalized encounter rate annually for inflation in accordance with these rules. ( )

**e.** The Department will adjust the claim payments for all provider claims paid at the interim encounter rate(s). These adjustments will reflect the payment at the finalized encounter rate(s). The Department will pay the provider for any total adjustment amount over what was reimbursed. The provider must pay the Department for any total adjustment amount that is under what was reimbursed. ( )

**03. Change in an Encounter Rate Due to a Change in Scope of Services**. ( )

**a.** After an approval is obtained for a change in scope of service from the federal Human Resources and Services Administration (HRSA), Bureau of Primary Healthcare, the provider must request the Department to review the encounter rate(s). This will include reviewing the addition of a new service(s), deletion of an existing service(s), or other changes in the intensity of services offered by the provider that could change the total cost per encounter. The provider must request the Department to review the encounter rate(s) within sixty (60) days after the approval from the HRSA Bureau of Primary Health Care for a change in scope of service. The Department requires the same supporting documentation required by the HRSA Bureau of Primary Health Care. ( )

**b.** When the provider does not have to file a change in scope of service with the HRSA Bureau of Primary Health Care, but plans an increase or decrease in the intensity of services to be offered that will result in a change to the scope of services, the provider must request the Department to review the request for a change in intensity and determine if there will be an increase or decrease in the encounter rate(s). The Department will review the request for a change in intensity within sixty (60) days of the planned change. ( )

**c.** The Department reserves the right to audit the Medicare cost report and recalculate the encounter rates when a change in the scope of service is reported. ( )

**d.** The Department will determine the encounter rate in accordance with this rule when the provider

had reported a change in scope of service. The Department will audit the most recent twenty-four (24) consecutive months of Medicare cost reports following any change(s) in the scope of service. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. The finalized encounter rate(s) for both medical/mental and dental encounters will be recalculated and audited using the Medicare cost report for the second full twelve (12) month period. ( )

**04. Annual Filing Requirements**. Each provider is required to file a copy of its Medicare cost report on an annual basis. Department deadlines are the same as those imposed by Medicare. ( )

~~**827. -- 829. (RESERVED)**~~

~~**830. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: DEFINITIONS.**~~

~~**01. Change in Intensity of Services of an FQHC**. A change in the intensity of services of an FQHC means a change in the quantity and complexity of services delivered that could change an FQHC's total allowable cost per encounter. This does not include an expansion or remodeling of an existing FQHC. This may include such things as the addition of new services or the deletion of existing services. (3-17-22)~~

~~**02. Encounter**. An encounter, for FQHC payment purposes, is a face-to-face contact for the provision of medical/mental or dental services between a FQHC patient and a provider as specified in Subsections 832.01 through 832.07 of these rules. For the purposes of establishing encounter rates, the term "medical/mental" refers to a single category of service. (3-17-22)~~

~~**03. Encounter Rate**. An encounter rate can be of two (2) types, either medical/mental or dental; either of these two (2) types can be either an interim rate or a finalized rate. An encounter rate is the total amount of annual costs for the type of encounter divided by the total number of encounters for that type of encounter for the FQHC's fiscal year. (3-17-22)~~

~~**a.** Interim Encounter Rate. If the FQHC is new and historical cost information is not available, the Department sets the interim encounter rate using budgeted cost and encounter information submitted by the provider. If the FQHC is not able to obtain its financial budget information, the Department sets the interim encounter rate by referring to encounter rates paid to other FQHCs in the same or adjacent regional areas with similar caseloads. (3-17-22)~~

~~**b.** Finalized Encounter Rate. If the FQHC is an existing facility and has at least twenty four (24) consecutive months of historical cost and encounter information, the Department uses the second full twelve (12) month audited Medicare cost report to calculate a finalized encounter rate. (3-17-22)~~

~~**04. Federally Qualified Health Centers (FQHCs)**. Federally qualified health centers are defined in federal law at 42 USC Section 1396d(1)(2), which incorporates the definition at 42 USC Section 1395x(aa)(1), and includes community health centers, migrant health centers, providers of care for the homeless, and outpatient health programs or clinics operated by a tribe or tribal organization under the Indian Self-Determination Act (P.L. 93-638). It also includes clinics that qualify for, but are not actually receiving, grant funds according to Sections 329, 330, or 340 of the Public Health Service Act (42 USC Sections 201, et seq.) that may provide ambulatory services to medical assistance participants. (3-17-22)~~

~~**05. Medicare Cost Report Period**. The period of time covered by the Medicare required annual report of an FQHC's costs. (3-17-22)~~

~~**06. Medicare Economic Index (MEI)**. MEI is an annual measure of inflation designed to estimate the increase in the total cost for the average physician to operate a medical practice. The MEI takes into account cost categories such as a physician's own time, non-physician employees' compensation, rents, and medical equipment. The MEI is used in establishing the annual changes to the payment conversion factors used as part of the methodology for determining FQHC reimbursement rates. (3-17-22)~~

~~**831. (RESERVED)**~~

**832. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: COVERAGE AND LIMITATIONS.**
FQHC services are defined as follows: (3-17-22)

**01. Physician Services**. Physician services; or (3-17-22)

**02. Incidental Services and Supplies to Physician Services**. Services and supplies incidental to physician services, including drugs and pharmaceuticals that cannot be self-administered; or (3-17-22)

**03. Physician Assistant Services**. Physician assistant services; or (3-17-22)

**04. Nurse Practitioner or Clinical Nurse Specialist Services**. Nurse practitioner or clinical nurse specialist services; or (3-17-22)

**05**. **Clinical Psychologist Services**. Clinical psychologist services; or (3-17-22)

**06. Clinical Social Worker Services**. Clinical social worker services; or (3-17-22)

**07. Licensed Dentist and Dental Hygienist Services**. Licensed dentist and dental hygienist services; or (3-17-22)

**08. Incidental Services and Supplies to Non-Physicians**. Services and supplies incident to a nurse practitioner, physician's assistant, clinical psychologist, clinical social worker, or dentist or dental hygienist services that would otherwise be covered if furnished by or incident to physician services; or (3-17-22)

**09. FQHC Services**. In the case of an FQHC that is located in an area that has a shortage of home health agencies, FQHC services are part-time or intermittent nursing care and related medical services to a home-bound individual; and (3-17-22)

**10. Other Payable Medical Assistance Ambulatory Services**. Other payable medical assistance ambulatory services offered by the Idaho Medicaid program that the FQHC undertakes to provide, including pneumococcal or immunization vaccine and its administration. (3-17-22)

**833. – 834. (RESERVED)**

**835. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: REIMBURSEMENT METHODOLOGY.**

**01. Payment**. Payment for Federally Qualified Health Center and Rural Health Clinic services must be made in accordance with Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, P.L. 106-554, 42 USC Section 1396a(bb), Subsections (1) through (4). (3-17-22)

**02. FQHC Encounter Limitations and Exceptions**. FQHC encounters have the following limitations and exceptions to these limitations as described in Subsections 835.02.a. through 835.02.d. of this rule: (3-17-22)

**a.** Each contact with a separate discipline of health professional (medical/mental or dental), on the same day at the same location, is considered a separate encounter. All contacts with all practitioners within a disciplinary category (medical/mental or dental) on the same day is one (1) encounter. (3-17-22)

**b.** Reimbursement for services is limited to three (3) encounters per participant per day. (3-17-22)

**c.** As an exception to Subsection 835.02.a. of this rule, a second encounter with the same professional on the same day may be reimbursed; or (3-17-22)

**d.** As an exception to Subsection 835.02.b. of this rule, an additional encounter may be reimbursed, if the encounter is caused by an illness or injury that occurs later in time than the first encounter and requires additional diagnosis or treatment. (3-17-22)

**836. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: RATE SETTING METHODOLOGY.**

**01. Prospective Payment System.** (3-17-22)

**a.** For rate periods beginning on January 1, 2001, the Department will establish separate, finalized rates for medical/mental encounters and for dental encounters. The Department will prospectively set these finalized encounter rates using the FQHC's medical/mental and dental encounter costs. (3-17-22)

**b.** Beginning in federal fiscal year 2002, and for each federal fiscal year thereafter, the Department will pay each FQHC an encounter rate equal to the amount paid in the previous federal fiscal year. For the period starting with federal fiscal year 2002 and thereafter, the Department will adjust the encounter rate for inflation using the Medicaid Economic Index (MEI), as published by CMS. For both medical/mental encounters and dental encounters, FQHCs are paid on a per encounter basis, with the limitations and exceptions described under Subsection 835.02 of these rules. (3-17-22)

**c.** If an out-of-state FQHC becomes an Idaho Medicaid provider and provides less than one hundred (100) Idaho Medicaid encounters or receives less than ten thousand dollars ($10,000) in Idaho Medicaid payments in the first year after entering the program, the Department will deem the FQHC a low utilization provider. The finalized encounter rate for low utilization providers will be the same as the interim encounter rate as defined in Subsection 836.02.a. of this rule. If there is an increase in either the number of encounters or in the amount of payments over any twelve (12) month Medicare cost report period, the Department reserves the right to audit a low utilization provider's Medicare cost report in order to set a new interim encounter rate as defined in Subsection 836.02.a. of this rule. (3-17-22)

**02. FQHCs That Become Idaho Medicaid Providers.** (3-17-22)

**a.** If the FQHC is new and encounter rate information for other FQHCs in the same or adjacent regional areas with similar caseloads is not available, the Department will set the interim encounter rate using historical cost information. If historical cost information is not available, the Department will use budgeted cost and encounter information submitted by the provider. If the FQHC is not able to provide its financial budget information, the Department will set the interim encounter rate by referring to encounter rates paid to other FQHCs in the same or adjacent regional areas with similar caseloads. Regional areas are defined by the Department. (3-17-22)

**b.** If the FQHC has been designated as an FQHC for at least twenty-four (24) consecutive months and provides the historical cost and encounter information for this period to the Department, the Department will use the second full twelve (12) month audited Medicare cost report to calculate a finalized encounter rate. The Department will provide the FQHCs a supplemental information worksheet to complete. This worksheet will be used by the Department to identify dental encounters and other incidental costs related to either medical/mental or dental FQHC encounters. (3-17-22)

**c.** For both new and existing FQHCs that become Idaho Medicaid providers, the Department will audit the Medicare cost report for the twenty four (24) consecutive months that represent two (2) complete fiscal years after the FQHC has become a Medicaid provider. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. (3-17-22)

**d.** For both new and existing FQHCs that become Idaho Medicaid providers, the Department will adjust the finalized encounter rate annually for inflation in accordance with Subsection 836.01.b. of this rule. (3-17-22)

**e.** The Department will adjust the claim payments for all FQHC claims paid at the interim encounter rate(s). These adjustments will reflect the payment at the finalized encounter rate(s). The Department will pay the FQHC for any total adjustment amount over what was reimbursed. The FQHC must pay the Department for any total adjustment amount that is under what was reimbursed. (3-17-22)

**03. Change in an FQHC Encounter Rate Due to a Change in the FQHC's Scope of Services.**

~~(3-17-22)~~

~~**a.** After an FQHC obtains approval for a change in scope of service from the federal Human Resources and Services Administration (HRSA), Bureau of Primary Healthcare, the FQHC must request the Department to review the encounter rate(s) for the FQHC. The review will include reviewing the addition of a new service(s), deletion of an existing service(s), or other changes in the intensity of services offered by an FQHC that could change an FQHC's total cost per encounter. The FQHC must request the Department to review the encounter rate(s) within sixty (60) days after the FQHC has gained approval from the HRSA Bureau of Primary Health Care for a change in scope of service. The Department requires the same supporting documentation required by the HRSA Bureau of Primary Health Care.~~ ~~(3-17-22)~~

~~**b.** When an FQHC does not have to file a change in scope of service with the HRSA Bureau of Primary Health Care, but plans an increase or decrease in the intensity of services to be offered that will result in a change the FQHC's scope of services, the FQHC must request the Department to review the request for a change in intensity and determine if there will be an increase or decrease in the encounter rate(s) for the FQHC. The Department will review the request for a change in intensity within 60 (sixty) days of the planned change in intensity of services.~~ ~~(3-17-22)~~

~~**c.** The Department reserves the right to audit the Medicare cost report and recalculate the encounter rates when the FQHC has reported a change in scope of service.~~ ~~(3-17-22)~~

~~**d.** The Department will determine the encounter rate in accordance with Subsection 836.02 of this rule when the FQHC has reported a change in scope of service. The Department will audit and cost settle the most recent twenty-four (24) consecutive months of Medicare cost reports following any change(s) in an FQHC's scope of service. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. The finalized encounter rate(s) for both medical/mental and dental encounters will be recalculated and audited using the Medicare cost report for the second full twelve (12) month period.~~ ~~(3-17-22)~~

~~**04. Annual Filing Requirements**. Each provider is required to file a copy of its Medicare cost report on an annual basis. Department deadlines are the same as those imposed by Medicare.~~ ~~(3-17-22)~~

~~**05. Quarterly Supplemental Payments**. In the case of any FQHC that contracts with a managed care organization, the Department will make quarterly supplemental payments to the FQHC for the difference between the payment amounts paid by the managed care organization and the amount to which the FQHC is entitled under the prospective payment system for Medicaid participants.~~ ~~(3-17-22)~~

**8~~37~~28. -- 841. (RESERVED)**

**842. INDIAN HEALTH SERVICE (IHS) CLINIC SERVICES: COVERAGE AND LIMITATIONS.**
Payment will be available to Indian Health Service (IHS) clinics for any service provided within the conditions of the scope of care and services described in S~~ubs~~ection ~~835.02~~ 823 of these rules. ~~(3-17-22)~~( )

**843. -- 844. (RESERVED)**

**845. INDIAN HEALTH SERVICE (IHS) CLINIC SERVICES: PROVIDER REIMBURSEMENT.**

**01. Payment Procedure**. Payment for services other than prescribed drugs will be made on a per visit basis at a rate not exceeding the outpatient visit rate established by the Federal Office of Management and Budget as published annually in the Federal Register. (3-17-22)

**02. Payment for Prescribed Drugs**. Payment for prescribed drugs will be available as described in Subsection 662.01 of these rules. (3-17-22)

**03. Dispensing Fee for Prescriptions**. The allowed dispensing fee used to compute maximum payment for each prescription will be the midpoint dispensing fee of the range of fees in effect at the date of service unless a higher fee is justified by a pharmacy cost of operations report on file with the Department. (3-17-22)

**04. Third Party Liability Not Applicable**. The provisions of Section 215 of these rules are not applicable to Indian health service clinics. (3-17-22)

**846. -- 849. (RESERVED)**

**850. SCHOOL-BASED SERVICE: DEFINITIONS.**

**01. Activities of Daily Living (ADL)**. The performance of basic self-care activities in meeting a participant's needs for sustaining them in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (7-1-24)

**02. Children's Habilitation Intervention Services (CHIS)**. ~~CHIS are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid eligible students with identified developmental limitations that impact the student's functional skills and behaviors across an array of developmental domains. CHIS include habilitative skill building, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services~~ As defined in Section 570 of these rules. ~~(7-1-24)~~( )

**03. Educational Services**. Services that are provided in buildings, rooms, or areas designated or used as a school or an educational setting, which are provided during the specific hours and time periods in which the educational instruction takes place in the school day and period of time for these students, which are included in the individual educational plan (IEP) for the student. (3-17-22)

**04. Evidence-Based Interventions**. Interventions that have been scientifically researched and reviewed in peer reviewed journals, replicated successfully by multiple independent investigators, ~~have been~~ shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model. ~~(3-17-22)~~( )

**05. Evidence-Informed Interventions**. Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual who is not certified or credentialed in an evidence-based model. (7-1-24)

**06. Human Services Field**. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include sociology, special education, counseling, and psychology, or other areas of academic study referenced in the Idaho Medicaid Provider Handbook. ~~(7-1-24)~~( )

**07. School-Based Services**. School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (3-17-22)

~~**08. The Psychiatric Rehabilitation Association (PRA)**. An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work with individuals with mental illness. http://www.psychrehabassociation.org. (7-1-24)~~

~~**09. Serious Mental Illness (SMI)**. Under 42 CFR 483.102(b)(1), a person with SMI: (7-1-24)~~

~~**a.** Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-5-TR; and (7-1-24)~~

~~**b.** Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational, or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (7-1-24)~~

~~10~~8. **Serious and Persistent Mental Illness (SPMI)**. A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-5-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (7-1-24)

**851. SCHOOL-BASED SERVICE: PARTICIPANT ELIGIBILITY.**
To be eligible for ~~medical assistance~~ Medicaid reimbursement ~~for covered services, school districts and charter schools~~ providers must ensure: ~~(3-17-22)~~( )

~~**01. Medicaid Eligibility**. Eligible for Medicaid and the service for which the school district or charter school is seeking reimbursement;~~ ~~(3-17-22)~~

~~**02. School Enrollment**. Enrolled in an Idaho school district or charter school;~~ ~~(3-17-22)~~

0~~3~~1. **Age**. Twenty-one (21) years of age or younger and the semester in which their twenty-first birthday falls is not finished; (3-17-22)

~~**04. Educational Disability**. Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness."~~ ~~(3-17-22)~~

0~~5~~2. **Parental Consent**. Providers must obtain a one-time parental consent to access public benefits or insurance from a parent or legal guardian for school-based Medicaid reimbursement. (3-17-22)

**852. SCHOOL-BASED SERVICE: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.**
~~Skills Building/Community Based Rehabilitation Services (CBRS). CHIS and Personal Care Services (PCS) have additional eligibility requirements.~~ ~~(3-17-22)~~

**01. Skills Building/Community Based Rehabilitation Services (CBRS)**. To be eligible for Skills Building/CBRS, the student must meet one (1) of the following: (3-17-22)

**a.** A student ~~who is a child~~ under eighteen (18) years of age ~~must~~ meeting the Serious Emotional Disturbance (SED) eligibility criteria ~~for children~~ in ~~accordance with~~ the Children's Mental Health Services Act, Section 16-2403, Idaho Code. ~~A~~ The child ~~who meets the criteria for SED~~ must experience a substantial impairment in functioning. The ~~child's~~ level and type of ~~functional~~ impairment must be documented in the school record. A Department-approved assessment must be used ~~to obtain the child's~~ for an initial functional impairment score. Subsequent scores must be obtained ~~at least~~ annually ~~in order~~ to determine ~~the child's~~ changes in functioning ~~that occurs~~ as a result of mental health treatment. ~~(3-17-22)~~( )

**b.** A student ~~who is~~ eighteen (18) years old or older ~~must~~ meeting the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria for SMI, as described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas listed below on either a continuous or intermittent basis, at least once per year. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: ~~(3-17-22)~~( )

i. Vocational or educational; (3-17-22)

ii. Financial; (3-17-22)

iii. Social relationships or support; (3-17-22)

iv. Family; (3-17-22)

v. Basic living skills; (3-17-22)

vi. Housing; (3-17-22)

vii. Community or legal; or (3-17-22)

viii. Health or medical. (3-17-22)

**02. CHIS**. Students are eligible to receive ~~habilitative skill building, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services must have a standardized Department-approved assessment to identify functional, or behavioral needs, or both, that interfere with the student's ability to access an education or require intervention services to correct or ameliorate their condition~~ CHIS services in accordance with Section 880, and behavioral consultation of these rules. ~~(3-17-22)~~( )

~~**a.** A functional need is determined when the student exhibits a deficit in an overall adaptive composite or deficits in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. A deficit is defined as one point five (1.5) or more standard deviations below the mean for all functional areas.~~ ~~(3-17-22)~~

~~**b.** A behavioral need is determined when the student exhibits maladaptive behaviors that include frequent disruptive behaviors, aggression, self injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by a rater familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by a rater familiar with the student, on a standardized behavioral assessment approved by the Department.~~ ~~(3-17-22)~~

**03. Personal Care Services**. To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment and allocation tool approved by the Department. ~~To determine eligibility for PCS, the assessment results must~~ that finds the student requires PCS due to a medical condition that impairs ~~the~~ physical or functional abilities ~~of the student~~. ~~(3-17-22)~~( )

**853. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.**
The Department will pay ~~school districts and charter schools~~ for ~~covered rehabilitative and health related~~ services. ~~Services~~ includeing medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. ~~(3-17-22)~~( )

**01. Excluded Services**. ~~The following services are excluded from Medicaid payments to school-based programs:~~ ~~(3-17-22)~~( )

~~**a.** Vocational Services.~~ ~~(3-17-22)~~

~~**b.** Educational Services. Educational services (other than health related services) or education based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services only cannot be billed.~~ ~~(7-1-24)~~

~~**c.** Recreational Services.~~ ~~(3-17-22)~~

~~**d**~~**a.** Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. (3-17-22)

**b.** Services provided more than thirty (30) days prior to the signed and dated recommendation or referral. ( )

**02. Evaluation and Diagnostic Services**. Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-17-22)

~~**a.** Be recommended or referred by a physician or other licensed practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral;~~ ~~(3-17-22)~~

~~**b**~~**a.** Be conducted by ~~qualified professionals~~ providers for the respective discipline as defined in Section 855 of these rules; ~~(3-17-22)~~( )

~~**c**~~**b.** Be directed toward a diagnosis; (3-17-22)

~~**d**~~**c.** Include recommended interventions to address each need; and (3-17-22)

~~**e**~~**d.** Include name, title, and signature of the person conducting the evaluation. (3-17-22)

**03. Reimbursable Services**. ~~School districts and charter schools~~ Providers can bill for the following health-related services provided ~~to eligible students when the services are provided~~ under the recommendation of a ~~physician or other practitioner of the healing arts for the Medicaid services~~ provider for ~~which the school district or charter school is seeking~~ reimbursement. ~~A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral.~~ The recommendations or referrals are valid up to three hundred sixty-five (365) days. ~~(7-1-24)~~( )

**a.** ~~Behavioral Intervention.~~ Behavioral Intervention is a direct intervention used to promote positive, meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies, while also addressing any identified habilitative skill building needs and the student's ability to participate in educational services~~, as defined in Section 850 of these rules,~~ through a consistent, assertive, and continuous intervention process to address behavior goals identified on the IEP. Behavioral intervention includes conducting a functional behavior assessment and developing a behavior implementation plan ~~with the purpose of~~ for preventing or treating behavioral conditions. This service is provided to students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. ~~(3-17-22)~~( )

i. Group services ~~must be~~ provided by one (1) qualified staff providing direct services for two (2) or three (3) students. ~~(7-1-24)~~( )

ii. As the ~~number and~~ severity of the students with behavioral issues increases, the student ratio in the group must be adjusted from three (3) to two (2). ~~(7-1-24)~~( )

iii. Group services should only be delivered when the student's goals relate to benefiting from group interaction. (3-17-22)

**b.** ~~Behavioral Consultation.~~ Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. ~~(3-17-22)~~( )

i. Behavioral consultation cannot be provided as a direct intervention service. (3-17-22)

ii. Behavioral consultation must be limited to thirty-six (36) hours ~~per student~~ per year. ~~(3-17-22)~~( )

**c.** ~~Crisis Intervention.~~ Crisis intervention ~~services may include providing training to staff directly involved with the student, delivering intervention directly with the eligible student, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences~~ as defined in Section 573. This service is provided on a short-term basis, typically not exceeding

thirty (30) school days. and is available for students who have an unanticipated event, circumstance, or life situation that places a student at risk of at least one (1) of the following: (7-1-24)( )

i. Hospitalization; (3-17-22)

ii. Out-of-home placement; (3-17-22)

iii. Incarceration; or (3-17-22)

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. (3-17-22)

**d.** Habilitative Skill Building. Habilitative skill building is a direct intervention service that includes techniques used to develop, improve and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a student. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible student. Services include individual or group interventions as defined in Section 573. (3-17-22)( )

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) students. (7-1-24)

ii. As the number and needs of the students increase, the student ratio in the group must be adjusted accordingly. (3-17-22)

iii. Group services should only be delivered when the student's goals relate to benefiting from group interaction. (3-17-22)

**e.** Interdisciplinary Training. Interdisciplinary training is a companion service to behavioral intervention and habilitative skill building and is used to assist with implementing a student's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the student's needs. This service is to be utilized for collaboration, with the student present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, or behavioral or mental health professional as defined in Section 573. (3-17-22)( )

**f.** Durable Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be medically necessary, ordered by a physician or non-physician practitioner, and prior authorized. Authorized items must be fFor use at the school where the service is provided. Equipment that is too large or unsanitary to transport from home to school and back may be covered, if prior authorized. The equipment and supplies must be for the student's exclusive use and must be transferred with the student if the student changes schools. All equipment purchased by Medicaid belongs to the student. (3-17-22)( )

**g.** Nursing Services. Skilled nNursing services must be provided by a licensed nurse, within the scope of their practice. including Eemergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (7-1-24)( )

**h.** Occupational Therapy and Evaluation. These services for vocational assessment, training or vocational rehabilitation are not reimbursed. (7-1-24)( )

**i.** Personal Care Services (PCS). School-based PCS include medically oriented tasks having to do with the student's physical or functional requirements. PCS do not require a goal on the plan of service. The provider must deliver at least one (1) of the following services: (7-1-24)( )

i. Basic personal care and grooming to include bathing, hair care, assistance with clothing, and basic skin care; (7-1-24)

ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bathroom routines; (3-17-22)

iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (3-17-22)

iv. Assisting the student with ~~physician~~ provider-ordered medications that are ordinarily self-administered, under IDAPA 24.34.01, "Rules of the Idaho Board of Nursing~~,~~;" ~~Subsection 490.05;~~ ~~(7-1-24)~~( )

v. Non-nasogastric gastrostomy tube feedings~~, if the task is not complex and can be safely performed in the given student care situation, and~~ meeting the requirements under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. ~~(7-1-24)~~( )

**j.** Physical Therapy ~~and Evaluation~~. ~~(3-17-22)~~( )

**k.** Psychological Evaluation. (3-17-22)

**l.** Psychotherapy. (3-17-22)

**m.** Skills Building/Community-Based Rehabilitation Services (CBRS)~~. Skills Building/CBRS~~ are interventions to reduce the student's disability by assisting in gaining and utilizing skills necessary to participate in school. They are designed to build competency and confidence while increasing mental health and/or decreasing behavioral symptoms. Skills Building/CBRS provides training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, and coping skills~~. These services are intended~~ to prevent placement ~~of the student~~ in~~to~~ a more restrictive ~~educational~~ situation. ~~(7-1-24)~~( )

**n.** Speech/Audiological Therapy and Evaluation. (3-17-22)

**o.** Social History and Evaluation. (3-17-22)

**p.** Transportation Services. ~~School districts and charter schools~~ Providers can receive reimbursement for mileage for transporting a student ~~to and from~~ between home and school when: ~~(3-17-22)~~( )

i. The student requires special transportation assistance, a wheelchair lift~~,~~ or an attendant~~, or both,~~ when medically necessary ~~for the health and safety of the student~~; ~~(3-17-22)~~( )

ii. The ~~transportation occurs in a~~ vehicle is specifically adapted to meet the needs of ~~a student with~~ a disability; ~~(3-17-22)~~( )

iii. The student ~~requires and~~ receives ~~another~~ Medicaid-reimbursable services billed by the ~~school-based services~~ provider, other than transportation, on the day ~~that~~ transportation is ~~being~~ provided; ~~(7-1-24)~~( )

iv. ~~Both the Medicaid-covered service and the need for the special~~The transportation ~~are~~ is included on the student's plan; and ~~(3-17-22)~~( )

v. The mileage, as well as the services performed by the attendant, are documented. ~~See Section 855 of these rules for documentation requirements.~~ ~~(3-17-22)~~( )

**q.** ~~Interpretive Services.~~ Interpretive services ~~needed by~~ for a student ~~who is deaf or does not adequately speak or understand English and~~ requires~~ing~~ an interpreter to communicate with the professional or paraprofessional providing ~~the student with~~ a health-related service may be billed ~~with the following limitations~~ when services are: ~~(3-17-22)~~( )

i. ~~Payment for interpretive services is l~~Limited to the specific time ~~that the student is receiving~~ the health-related service~~;~~ is received. ~~d~~Documentation ~~for interpretive service~~ must include the ~~Medicaid reimbursable health-related~~ service ~~being~~ provided ~~while the interpretive service is provided~~. ~~(7-1-24)~~( )

ii. ~~Both the Medicaid-covered service and the need for interpretive services must be i~~Included on the student's plan; and ~~(3-17-22)~~( )

iii. ~~Interpretive services are not covered if the~~Provided by a professional or paraprofessional ~~providing services is~~ unable to communicate in the student's primary language. ~~(3-17-22)~~( )

**854. SCHOOL-BASED SERVICE: PROCEDURAL REQUIREMENTS.**
The following documentation must be maintained by the provider and retained for a period of five (5) years: (3-17-22)

**01. Individualized Education Program (IEP) and Other Service Plans**. ~~School districts and charter schools~~ Providers may bill for ~~Medicaid~~ services covered by a current Individualized Education Program (IEP), transitional Individualized Family Service Plan (IFSP), or Services Plan (SP) defined in the Idaho Special Education Manual ~~on the State Department of Education website~~ for parentally placed private school students with disabilities when designated funds are available for special education and related services. The plan must be ~~developed~~ within the previous three hundred sixty-five (365) days ~~which indicates~~ and the need for one (1) or more medically-necessary health-related service, and lists all the Medicaid reimbursable services for which the ~~school district or charter school~~ provider is requesting reimbursement. The IEP and transitional IFSP must include: ~~(3-17-22)~~( )

**a.** Type, frequency, and duration of the service~~(s)~~ provided; ~~(3-17-22)~~( )

**b.** Title of the provider~~(s)~~, including the direct care staff delivering services under the supervision of the professional; ~~(3-17-22)~~( )

**c.** Measurable goals, when goals are required for the service; and (3-17-22)

**d.** Specific place of service, if provided in a location other than school. (3-17-22)

**02. Evaluations and Assessments**. ~~Evaluations and assessments must:~~ ~~(3-17-22)~~( )

~~**a.** Support services billed to Medicaid; and~~ ~~(3-17-22)~~

~~**b.** Accurately reflect the student's current status.~~ ~~(3-17-22)~~

**03. Service Detail Reports**. A service detail report that includes: (3-17-22)

**a.** Name of student; (3-17-22)

**b.** Name, title, and signature of the person providing the service; (3-17-22)

**c.** Date, time, and duration of service; (3-17-22)

**d.** Place of service, if provided in a location other than school; (3-17-22)

**e.** Category of service and brief description of the specific areas addressed; and (3-17-22)

**f.** Student's response to the service when required for the service. (3-17-22)

**04. One Hundred Twenty Day Review**. A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual plan. (3-17-22)

**05. Documentation of Qualifications of Providers**. (3-17-22)

**06. ~~Copies of~~ Required Referrals and Recommendations**. ~~Copies of required referrals and recommendations.~~ School-based services must have: ~~(3-17-22)~~( )

**a.** ~~School-based services must be r~~Recommend~~ed~~ations or referr~~ed~~als by a ~~physician or other licensed practitioner of the healing arts for all Medicaid services for which the school district or charter school is receiving reimbursement~~ provider. ~~(3-17-22)~~( )

**b.** A recommendation or referral ~~must be~~ obtained within thirty (30) days of the provision of services ~~for which the school district or charter school is seeking reimbursement. Therapy requirements for the order are identified in Section 733 of these rules~~. ~~(3-17-22)~~( )

**c.** A recommendation or referral must be obtained for the service at least every three hundred sixty-five (365) days. (3-17-22)

~~**07. Parental Notification**. School districts and charter schools must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 854.08 of this rule.~~ ~~(3-17-22)~~

0~~8~~7. **Requirements for Cooperation with and Notification of Parents and Agencies**. Each ~~school district or charter school billing for Medicaid services~~ provider must act in cooperation with students' parent or guardian, and with community and state agencies and professionals who provide like Medicaid services to the student. ~~(3-17-22)~~( )

**a.** ~~Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts and charter schools~~Providers must document that parents are notified of the ~~Medicaid~~ services ~~and equipment for which they will~~ billed to Medicaid. Notification must describe the service~~(s), service~~ provider~~(s)~~, and ~~state~~ the type, location, frequency, and duration of the service~~(s)~~. The school district must document that they provided the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and ~~(3-17-22)~~( )

**b.** ~~Primary Care Provider (PCP).~~ School districts and charter schools must request the name of the student's Primary Care Provider (PCP) and request a written consent to release and obtain information between the PCP and the school from the parent or guardian. ~~(3-17-22)~~( )

**c.** ~~Other Community and State Agencies.~~ Upon receiving a request for a copy of the evaluations or the current plan, the ~~school district or charter school~~ provider must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. ~~(3-17-22)~~( )

**855. SCHOOL-BASED SERVICE: PROVIDER QUALIFICATIONS AND DUTIES.**
Medicaid will only reimburse for services provided by ~~qualified~~ staff~~.~~ with ~~T~~the following ~~are the minimum~~ qualifications ~~for providers of covered services~~: ~~(3-17-22)~~( )

**01. Behavioral Intervention**. Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing behavioral intervention must be one (1) of the following: (7-1-24)

**a.** Intervention Paraprofessional. Provides direct services. The specialist or professional must observe and review the direct services performed by the paraprofessional monthly, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional under the direction of a qualified intervention specialist or professional must: (7-1-24)

i. Be at least eighteen (18) years of age; (3-17-22)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and (3-17-22)

iii. Meet the paraprofessional requirements under IDAPA 08.02.02, "Rules Governing Uniformity." (7-1-24)

**b.** Intervention Technician. ~~A provisional position intended to allow an individual to gain the necessary degree, competency, or experience needed to qualify as an intervention specialist or higher. Provisional status is limited to a single eighteen (18) successive month period. The specialist or professional must observe and review the direct services performed by the technician monthly, or more often as necessary, to ensure the technician~~

~~demonstrates the necessary skills to correctly provide the direct service. An intervention technician under the direction of a qualified intervention specialist or professional, must:~~ As defined by Section 575.03 of these rules, but does not need to be the employee of a DDA. ~~(7-1-24)~~( )

~~i. Be an individual who is currently enrolled and is within twenty four (24) semester credits, or equivalent, to complete their bachelor's degree or higher from an accredited institution in a human services field and working towards meeting the experience and competency requirements; or~~ ~~(3-17-22)~~

~~ii. Hold a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field and working towards meeting the experience and competency requirements.~~ ~~(7-1-24)~~

**c.** Intervention Specialist. Provides direct services, completes assessments, and develops implementation plans. Intervention specialists who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: (7-1-24)

i. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in State Board of Education Policy Section IV.B; (7-1-24)

ii. An individual who holds a Habilitative Intervention Certificate of Completion in Idaho with an expiration date of July 1, 2019, or later, and does not have a gap of more than three (3) years of employment as an intervention specialist; or (7-1-24)

iii. An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits in a human services field, can demonstrate one thousand forty (1,040) hours of supervised experience working with children who demonstrate functional or behavioral needs, and meets the competency requirements by completing one (1) of the following: (3-17-22)

(1) A Department-approved competency checklist referenced in the Idaho Medicaid Provider Handbook; ~~(3-17-22)~~( )

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or (3-17-22)

(3) Other Department-approved competencies as defined in the Idaho Medicaid Provider Handbook. ~~(3-17-22)~~( )

**d.** Intervention Professional. ~~Provides direct services, completes assessments, and develops implementation plans. Intervention professionals who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both.~~ The services and qualifications for this provider type can be met by one (1) of the ~~following:~~ requirements under Subsection 575.04 of these rules. ~~(7-1-24)~~( )

~~i. An individual who holds a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis psychology, education, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and~~ ~~(3-17-22)~~

~~ii. Have one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training.~~ ~~(3-17-22)~~

**e.** Evidence-Based Model (EBM) Intervention Paraprofessional. ~~Provides direct services and must be~~

~~supervised under the evidence-based model in which they are certified or credentialed. The EBM intervention specialist or professional must observe and review the direct services performed by the paraprofessional to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An EBM intervention paraprofessional must:~~ As defined under Subsection 575.05 of these rules. ~~(7-1-24)~~( )

~~i. Hold a high school diploma; and~~ ~~(3-17-22)~~

~~ii. Hold a para-level certification or credential in an evidence-based model approved by the Department.~~ ~~(3-17-22)~~

**f.** Evidence Based Model (EBM) Intervention Specialist. ~~Provides direct services, completes assessments, and develops implementation plans and must be supervised under the evidence-based model in which they are certified or credentialed. The EBM intervention professional must observe and review the direct services performed by the specialist to ensure the specialist demonstrates the necessary skills to correctly provide the direct service. The specialist may supervise the EBM intervention paraprofessional working within the same evidence-based model. An EBM intervention specialist must:~~ As defined under Subsection 575.06 of these rules. ~~(7-1-24)~~( )

~~i. Hold a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and~~ ~~(3-17-22)~~

~~ii. Hold a bachelors-level certification or credential in an evidence-based model approved by the Department.~~ ~~(3-17-22)~~

**g.** Evidence-Based Model (EBM) Intervention Professional. As defined under Subsection 575.07 of these rules ~~P~~provides direct services, completes assessments, develops implementation plans, and may supervise EBM intervention paraprofessionals or specialists working within the same evidence-based model in which they are certified or credentialed. ~~An EBM intervention professional must:~~ ~~(7-1-24)~~( )

~~i. Hold a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and~~ ~~(3-17-22)~~

~~ii. Hold a masters-level certification or credential in an evidence-based model approved by the Department.~~ ~~(3-17-22)~~

**02. Behavioral Consultation**. Must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis psychology, education, or behavior analysis (may be included as part of degree program), and who meets one (1) of the following: (7-1-24)

**a.** An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in State Board of Education Policy Section IV.B; (7-1-24)

**b.** An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," excluding an RN or audiologist; (7-1-24)

**c.** An occupational therapist ~~who is qualified and registered to practice in Idaho~~; ~~(3-17-22)~~( )

**d.** An intervention professional~~, as defined in Subsection 855.01 of this rule~~; or ~~(3-17-22)~~( )

**e.** An EBM intervention professional~~, as defined in Subsection 855.01 of this rule~~. ~~(3-17-22)~~( )

**03. Crisis Intervention**. Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing crisis intervention must be one (1) of the following: (7-1-24)

**a.** An intervention paraprofessional~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**b.** An intervention technician~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**c.** An intervention specialist~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**d.** An intervention professional~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**e.** An EBM intervention paraprofessional~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**f.** An EBM intervention specialist~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**g.** An EBM intervention professional~~, under Subsection 855.01 of this rule~~; ~~(7-1-24)~~( )

**h.** A licensed physician, licensed practitioner of the healing arts; (3-17-22)

**i.** An advanced practice registered nurse; (3-17-22)

**j.** A licensed psychologist; (3-17-22)

**k.** A licensed clinical professional counselor or professional counselor; (3-17-22)

**l.** A licensed marriage and family therapist; (3-17-22)

**m.** A licensed masters social worker, licensed clinical social worker, or licensed social worker; (3-17-22)

**n.** A psychologist extender ~~registered with the Division of Occupational and Professional Licenses~~; ~~(7-1-24)~~( )

**o.** An RN; (7-1-24)

**p.** A licensed occupational therapist; or (3-17-22)

**q.** An endorsed or certified school psychologist. (3-17-22)

**04. Habilitative Skill Building**. Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing habilitative skill building must be one (1) of the following under Subsection 855.01 of this rule: (7-1-24)

**a.** An intervention paraprofessional; (7-1-24)

**b.** An intervention technician; (7-1-24)

**c.** An intervention specialist; (7-1-24)

**d.** An intervention professional; (7-1-24)

**e.** An EBM intervention paraprofessional; (7-1-24)

**f.** An EBM intervention specialist; or (7-1-24)

**g.** An EBM intervention professional. (7-1-24)

**05. Interdisciplinary Training**. Must be provided by one (1) of the following under Subsection 855.01 of this rule: (7-1-24)

**a.** An intervention specialist; (7-1-24)

**b.** An intervention professional; (7-1-24)

**c.** An EBM intervention specialist; (7-1-24)

**d.** An EBM intervention professional. (7-1-24)

**06. Medical Equipment and Supplies**. See Subsection 853.03 of these rules. (7-1-24)

**07. Nursing Services**. ~~Must be provided by an RN or by a licensed practical nurse (LPN) licensed to practice in Idaho.~~ ~~(7-1-24)~~( )

**08. Occupational Therapy and Evaluation**. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (3-17-22)

**09. Personal Care Services (PCS)**. Must be provided by or under the direction of an RN. (7-1-24)

**a.** Providers of PCS must have at least one (1) of the following qualifications: (3-17-22)

i. Licensed Registered Nurse (RN). (7-1-24)

ii. Licensed Practical Nurse (LPN). ~~A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse;~~ ~~(3-17-22)~~( )

iii. Certified Nursing Assistant (CNA). ~~A person currently certified by the State of Idaho; or~~ ~~(3-17-22)~~( )

iv. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. (3-17-22)

**b.** The RN must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-24)

i. Development of the written PCS plan of care; (3-17-22)

ii. Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (3-17-22)

iii. Reevaluation of the plan of care as necessary, but at least annually. (3-17-22)

**c.** The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (3-17-22)

**10. Physical Therapy and Evaluation**. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (3-17-22)

**11. Psychological Evaluation**. ~~Must be p~~Provided by a~~:~~ licensed professional within the scope of their practice. ~~(7-1-24)~~( )

~~**a.** Licensed psychiatrist; (3-17-22)~~

~~**b.** Licensed physician; (3-17-22)~~

~~**c.** Licensed psychologist; (3-17-22)~~

~~**d.** Psychologist extender registered with the Division of Occupational and professional Licenses; or~~

~~(7-1-24)~~

~~e. Endorsed or certified school psychologist.~~ ~~(3-17-22)~~

**12. Psychotherapy**. ~~Provision of psychotherapy services must have, one (1) or more of the following credentials:~~ Provided by a licensed professional within the scope of their practice. ~~(7-1-24)~~( )

~~a. Psychiatrist, MD;~~ ~~(7-1-24)~~

~~b. Physician, MD;~~ ~~(7-1-24)~~

~~c. Licensed psychologist;~~ ~~(3-17-22)~~

~~d. Licensed clinical social worker;~~ ~~(3-17-22)~~

~~e. Licensed clinical professional counselor;~~ ~~(3-17-22)~~

~~f. Licensed marriage and family therapist;~~ ~~(3-17-22)~~

~~g. Certified psychiatric nurse (RN), under Subsection 707.13 of these rules;~~ ~~(7-1-24)~~

~~h. Licensed professional counselor whose provision of psychotherapy is supervised under with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists";~~ ~~(7-1-24)~~

~~i. Licensed masters social worker whose provision of psychotherapy is supervised under IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners";~~ ~~(7-1-24)~~

~~j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised under IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or~~ ~~(7-1-24)~~

~~k. Psychologist extender, registered with the Division of Occupational and Professional Licenses, whose provision of diagnostic services is supervised under IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners."~~ ~~(7-1-24)~~

**13. Skills Building/Community-Based Rehabilitation Services (CBRS)**. Skills Building/CBRS must be provided by one (1) of the following. ~~Skills Building/Community Based Rehabilitation Services (CBRS) provider who is not required to have a PRA credential or credential required for CBRS specialists must be one (1) of the following~~: ~~(7-1-24)~~( )

**a.** Licensed physician, licensed practitioner of the healing arts; (3-17-22)

**b.** Advanced practice registered nurse; (3-17-22)

**c.** Licensed psychologist; (3-17-22)

**d.** Licensed clinical professional counselor or professional counselor; (3-17-22)

**e.** Licensed marriage and family therapist; (3-17-22)

**f.** Licensed masters social worker, licensed clinical social worker, or licensed social worker; (3-17-22)

**g.** Psychologist extender registered with the Division of Occupational and professional Licenses; (7-1-24)

**h.** Licensed registered nurse (RN); (3-17-22)

**i.** Licensed occupational therapist; (3-17-22)

**j.** Endorsed or certified school psychologist; (3-17-22)

**k.** Skills Building/Community Based Rehabilitation Services specialist who must: (7-1-24)

~~i. Be an individual who has a bachelor's degree and holds a current PRA credential; or~~ ~~(3-17-22)~~

ii~~.~~ Be an individual who has a bachelor's degree or higher and is under the supervision of a licensed behavioral health professional, a physician, nurse, or an endorsed or certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist monthly to review treatment provided to student participants on an ongoing basis. ~~The frequency of the one-to-one (1:1) supervision must occur at least monthly.~~ Supervision can be conducted using synchronous virtual care when it is equally effective as direct on-site supervision; and ~~(7-1-24)~~( )

iii~~.~~ Have a credential required for CBRS specialists. (3-17-22)

**14. Speech/Audiological Therapy ~~and Evaluation~~**. For therapy-specific rules, refer to Sections 730 through 739 of these rules. ~~(3-17-22)~~( )

**15. Social History and Evaluation**. ~~Must be provided by a RN, psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho.~~ Provider licensed and within the scope of their practice. ~~(7-1-24)~~( )

**16. Transportation**. Must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-24)

**17. Therapy Paraprofessionals**. The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy ~~if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist under the appropriate licensure and certification rules~~. The portions of the treatment plan ~~that can be~~ delegated to the paraprofessional must be identified in the IEP or transitional IFSP. ~~(7-1-24)~~( )

~~**a.** Occupational Therapy (OT). Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. (3-17-22)~~

~~**b.** Physical Therapy (PT). Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision, and service requirements. (7-1-24)~~

~~**c.** Speech-Language Pathology (SLP). Refer to IDAPA 24.23.01, "Rules of the Speech, Hearing and Communication Services Licensure Board," and the American Speech Language Hearing Association (ASHA) guidelines for qualifications, supervision, and service requirements for speech-language pathology as incorporated in Section 004 of these rules. (7-1-24)~~

~~i. Supervision must be provided by an SLP professional in Section 734 of these rules. (7-1-24)~~

~~ii. The professional must observe and review the direct services performed by the paraprofessional monthly, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the SLP service. (3-17-22)~~

**856. SCHOOL-BASED SERVICE: PROVIDER REIMBURSEMENT.**
~~Payment for health-related services provided by~~Only school districts and charter schools ~~must be in accordance with rates established by the Department~~ can be reimbursed for school-based services. ~~(3-17-22)~~( )

~~**01. Payment in Full**. Providers of services must accept as payment in full the school district or charter school payment for such services and must not bill Medicaid or Medicaid participants for any portion of any charges.~~ ~~(3-17-22)~~

~~**02. Third Party**. For requirements regarding third party billing, see Section 215 of these rules.~~ ~~(3-17-22)~~

0~~3~~1. **Recoupment of Federal Share**. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (3-17-22)

0~~4~~2. **Matching Funds**. Federal funds cannot be used as the State's portion of match for Medicaid service reimbursement. ~~School districts and charter schools~~ Providers must, for their own internal record keeping, calculate and document the non-federal funds (maintenance of effort assurance) that have been designated as their certified match. This documentation needs to include the source of all funds that have been submitted to the State and the original source of those dollars. The appropriate matching funds will be handled in the following manner: ~~(3-17-22)~~( )

**a.** Schools will estimate the amount needed to meet match requirements based on their anticipated monthly billings. (3-17-22)

**b.** ~~School districts and charter schools~~Providers will send the Department the matching funds, either by check or automated clearing house (ACH) electronic funds transfers. ~~(3-17-22)~~( )

**c.** The Department will hold matching funds in an interest-bearing trust account. The average daily balance during a month must exceed one hundred dollars ($100) in order to receive interest for that month. (3-17-22)

**d.** The payments to the districts will include both the federal and non-federal share (matching funds). (3-17-22)

**e.** Matching fund payments must be received and posted in advance of the weekly Medicaid payment cycle. (3-17-22)

**f.** If sufficient matching funds are not received in advance, all Medicaid payments to the school district will be suspended and the school district will be notified of the shortage. Once sufficient matching funds are received, suspended payments will be processed and reimbursement will be made during the next payment cycle. (3-17-22)

**g.** The Department will provide the school districts a monthly statement that will show the matching amounts received, interest earned, total claims paid, the matching funds used for the paid claims, and the balance of their funds in the trust account. (3-17-22)

**h.** The school districts will estimate the amount of their next billing and the amount of matching funds needed to pay the Department. (3-17-22)

**i.** The estimated match requirement may be adjusted up or down based on the remaining balance held in the trust account. (3-17-22)

**857. SCHOOL-BASED SERVICE: QUALITY ASSURANCE AND IMPROVEMENT.**
The provider will grant the Department immediate access to all information required to review compliance with these rules. (3-17-22)

**01. Quality Assurance**. Quality Assurance consists of reviews to assure compliance with the Department's rules and regulations. If problems are identified during the review, the provider must implement a corrective action plan within forty-five (45) days after the results are received. The Department will work with the school to answer questions and provide clear direction regarding the corrective action plan. (3-17-22)

**02. Quality Improvement**. The Department may gather and utilize information from providers to evaluate student satisfaction, outcomes monitoring, quality assurance, quality improvement activities, and health and safety. These findings may lead to quality improvement activities to improve provider processes and outcomes for the students. (3-17-22)

**858. -- 859. (RESERVED)**

**SUB AREA: MEDICAL TRANSPORTATION SERVICES**
**(Sections 860-879)**

**860. (RESERVED)**

**861. EMERGENCY TRANSPORTATION SERVICES: PARTICIPANT ELIGIBILITY.**
Ambulance services are medically necessary when an emergency condition exists. For purposes of reimbursement, an emergency condition exists when a participant manifests acute symptoms or signs, or both, which, by reasonable medical judgment of the Department, represent a condition of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in death, serious impairment of a bodily function or major organ, or serious jeopardy to the overall health of the participant. If such condition exists, and treatment is required at the participant's location, or transport of the participant for treatment in another location by ambulance is the only appropriate mode of travel, the Department will review such claims and consider authorization for emergency ambulance services. (3-17-22)

**862. EMERGENCY TRANSPORTATION SERVICES: COVERAGE AND LIMITATIONS.**

~~**01. Prior Authorization**. Medically necessary ambulance services are reimbursable in emergency situations or when prior authorization has been obtained from the Department.~~ ~~(3-17-22)~~

**02~~1~~1. Local Transport Only**. Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the participant was transported, payment may be made for such services only if the evidence clearly establishes that such institution is the nearest one with appropriate facilities and the service is authorized by the Department. (3-17-22)

**03~~2~~2. Air Ambulance Service**. In some areas, transportation by airplane or helicopter may qualify as ambulance services. Air ambulance services are covered only when: (3-17-22)

**a.** The point of pickup is inaccessible by land vehicle; or (3-17-22)

**b.** Great distances or other obstacles are involved in getting the participant to the nearest appropriate facility and speedy admission is essential; and (3-17-22)

**c.** Air ambulance service will be covered where the participant's condition and other circumstances necessitate the use of this type of transportation; however, where land ambulance service will suffice, payment will be based on the amount payable for land ambulance, or the lowest cost. (3-17-22)

**04~~3~~3. Co-Payments**. When the Department determines that the participant did not require emergency transportation, the provider can bill the participant for the co-payment amount as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-17-22)

**863. EMERGENCY TRANSPORTATION SERVICES: PROCEDURAL REQUIREMENTS.**

**01. Services Subject to Review**. Ambulance services are subject to review by the Department prior to the service being rendered, and on a retrospective basis. Ambulance service review is governed by provisions of the Transportation Policies and Procedures Manual as amended. ~~(3-17-22)~~( )

**02. Non-Emergency Transport Prior Authorization Required**. If an emergency does not exist, prior written authorization to transport by ambulance must be secured from the Department. (3-17-22)

**03. Air Ambulance**. Air ambulance services must be approved in advance by the Department, except in emergency situations. Emergency air ambulance services will be authorized by the Department on a retrospective basis. (3-17-22)

**864. EMERGENCY TRANSPORTATION SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. Medically Necessary**. For purposes of reimbursement, in non-emergency situations, the provider must provide justification to the Department that ~~travel by ambulance is medically necessary due to the medical condition of the participant, and that~~ any other mode of travel would, by reasonable medical judgment of the Department, result in death, serious impairment of a bodily function or major organ, or serious jeopardy to the overall health of the participant. ~~(3-17-22)~~( )

**02. Licensure Required**. All Emergency Medical Services (EMS) Providers that provide services to Medicaid participants in Idaho must hold a current license issued by the Emergency Medical Services Bureau of the Department in accordance with IDAPA 16.01.03, "Emergency Medical Services (EMS) Agency Licensing Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) Personnel Licensing Requirements." Ambulances based outside the state of Idaho must hold a current license issued by their states' EMS licensing authority when the transport is initiated outside the state of Idaho. Payment will not be made to ambulances that do not hold a current license. (3-17-22)

~~**03. Usual Charges**. Ambulance services providers cannot charge Medicaid participants more than is charged to the general public for the same service.~~ ~~(3-17-22)~~

**0~~4~~3.** **Air Ambulance**. The operator of the air service must bill the air ambulance service rather than the hospital or other facility receiving the participant. (3-17-22)

**865. EMERGENCY TRANSPORTATION SERVICES: PROVIDER REIMBURSEMENT.**

~~**01. Scope of Coverage and General Requirements for Ambulance Services**. Ambulance service review is governed by provisions of the Transportation Policies and Procedures Manual as amended. If such~~ an ambulance service review identifies that a~~n ambulance~~ service is not covered, then no ~~Medicaid~~ payment will be made ~~for the ambulance service~~. Reimbursement ~~for ambulance services~~ originally denied by the Department will be made if such decision is reversed by the appeals process ~~required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ Payment for ambulance services is subject to the following ~~limitations~~: ~~(3-17-22)~~( )

**0~~2~~1. Ambulance Reimbursement Base Rate**. ~~(3-17-22)~~( )

**a.** The base rate for ambulance services includes customary patient care equipment and items such as stretchers, clean linens, reusable devices and equipment. The base rate also includes nonreusable items, and disposable supplies such as oxygen, triangular bandages and dressings that may be required for the care of the participant during transport. In addition to the base rate, the Department will reimburse mileage. (3-17-22)

~~**b.** Charges for extra attendants are not covered except for justified situations and must be authorized by the Department.~~ ~~(3-17-22)~~

~~**c.** If a physician is in attendance during transport, they are responsible for the billing of their services.~~ ~~(3-17-22)~~

~~**d.** Reimbursement for waiting time will not be considered unless documentation submitted to the Department identifies the length of the waiting time and establishes its medical necessity or indicates that it was physician ordered. Limited waiting time will be allowed for round trips.~~ ~~(3-17-22)~~

~~**c**~~**b.** Ambulance units are licensed by the EMS Bureau of the Department, or other states' EMS licensing authority according to the level of training and expertise its personnel maintain. At least this level of personnel is required to be in the patient compartment of the vehicle for every ambulance trip. The Department will reimburse a base rate according to the following: (3-17-22)

i. The level of personnel required to be in the patient compartment of the ambulance; (3-17-22)

ii. The level of ambulance license the unit has been issued; and (3-17-22)

iii. The level of life support authorized by the Department. (3-17-22)

~~f~~**c.** Units with Emergency Medical Technician - Basic (EMT-B) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Basic Life Support (BLS) rate. Units with Advanced Emergency Medical Technician-Ambulance (AEMT-A) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Advanced Life Support, Level I (ALSI) rate. Units with Emergency Medical Technician - Paramedic (EMT-P) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Advanced Life Support, Level II (ALSII) rate. When a participant's condition requires hospital-to-hospital transport with ongoing care that must be furnished by one (1) or more health care professionals in an appropriate specialty area, including emergency or critical care nursing, emergency medicine, or a paramedic with additional training, Specialty Care Transport (SCT) may be authorized by the Department. (3-17-22)

~~g~~**02. Multiple Providers**. If multiple licensed EMS providers are involved in the transport of a participant, only ~~the ambulance~~ provider**s** who ~~actually~~ transport~~s~~ the participant will be reimbursed for ~~the~~ services. ~~(3-17-22)~~( )

~~i~~**a.** In situations where personnel and equipment from a licensed ALSII provider boards an ALSI or BLS ambulance, the transporting ambulance may bill for ALSII services as authorized by the Department. (3-17-22)

~~ii~~**b.** In situations where personnel and equipment from a licensed ALSI provider boards an ALSII or BLS ambulance, the transporting ambulance may bill for ALSI services as authorized by the Department. (3-17-22)

~~iii~~**c.** In situations where medical personnel and equipment from a medical facility are present during the transport of the participant, the transporting ambulance may bill at the ALSI or ALSII level of service. The transporting provider must arrange to pay the other provider for their services. ~~The only exception to the preceding policy is in situations where medical personnel employed by a licensed air ambulance provider boards an ALSI, ALSII, or BLS ground ambulance at some point, and the air ambulance medical personnel also accompany and treat the participant during the air ambulance trip. In this situation, the air ambulance provider may bill the appropriate base rate for the air ambulance trip, and may also bill the charges associated with their medical personnel and equipment as authorized by the Department.~~ ~~(3-17-22)~~( )

~~iv. The ground ambulance provider may also bill for their part of the trip as authorized by the Department.~~ ~~(3-17-22)~~

~~h~~**d.** If multiple licensed EMS providers transport a participant for different legs of a trip, each provider must bill their base rate and mileage~~, as authorized by the Department~~. ~~(3-17-22)~~( )

~~i. If a licensed transporting EMS provider responds to an emergency situation and treats the participant, but does not transport the participant, the Department may reimburse for the treat and release service. The Department will reimburse the appropriate base rate. This service requires authorization from the Department, usually on a retrospective basis.~~ ~~(3-17-22)~~

**e.** Charges for extra attendants are not covered except for justified situations and must be authorized by the Department. ( )

**f.** If a physician is in attendance during transport, they are responsible for the billing of their services. ( )

**03. Monthly Trips and Standby**. ( )

~~j~~**a.** If an ambulance ~~vehicle and crew have~~ return~~ed~~s to a base station after having transported a participant to a facility and the participant's ~~physician~~ provider orders the participant to be transferred from this facility to another facility because of medical need, two (2) base rate charges, in addition to the mileage, will be

considered for reimbursement. If an ambulance vehicle and crew do not return to a base station and the patient is transferred from one (1) facility to another facility, charges for only one (1) base rate, waiting time, and mileage will be considered. ~~(3-17-22)~~( )

~~k~~b. Round trip charges will be allowed only in circumstances when a facility in-patient is transported to another facility to obtain specialized services not available in the facility in which the participant is an in-patient. The transport must be to and from a facility that is the nearest one with the specialized services. (3-17-22)

c. Reimbursement for waiting time will not be considered unless documentation submitted to the Department identifies the length of the waiting time and established its medical necessity or indicates that it was physician ordered. Limited waiting time will be allowed for round trips. ( )

04. **Treat and Release**. The Department may reimburse the EMS provider at the appropriate base rate if they respond to an emergency situation, and treat and release the participant without transport. ( )

~~0~~5. **Response and Evaluation**. ~~If a licensed transporting EMS provider responds to a participant's location and upon examination and evaluation of the participant, finds that their condition is such that no treatment or transport is necessary, the Department will pay for the response and evaluation service. This service requires authorization by the Department, usually on a retrospective basis.~~The Department may reimburse the EMS provider if they respond to a participant's location, and no treatment or transport is necessary. No payment will be made if the EMS provider responds and no evaluation is done, or the participant has left the scene. No payment will be made to an EMS provider who is licensed as a non-transporting provider. ~~(3-17-22)~~( )

**866. -- 869. (RESERVED)**

**870. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: DEFINITIONS.**
For the purposes of Sections 870 through 879 of these rules, the following definitions apply. (3-17-22)

**01. Contracted Transportation Provider**. A non-emergency medical transportation provider who is under contract with the transportation broker to provide non-emergency medical transportation for Medicaid participants. (3-17-22)

**02. Individual Contracted Transportation Provider**. An individual who is under contract with the transportation broker to provide non-emergency medical transportation for a Medicaid participant in the provider's personal vehicle. (3-17-22)

**03. Non-Emergency Medical Transportation**. Non-emergency medical transportation is transportation that is: (3-17-22)

**a.** Not of an emergency nature; and (3-17-22)

**b.** Required for a Medicaid participant to access ~~medically necessary~~ services covered by Medicaid when the participant's own transportation resources, family transportation resources, or community transportation resources do not allow the participant to reach those services. ~~(3-17-22)~~( )

**04. Transportation Broker**. An entity under contract with the Department to administer, coordinate, and manage a statewide network of non-emergency medical transportation providers. (3-17-22)

**05. Travel-Related Services**. Travel-related services are meals, lodging, and attendant care required for non-emergency medical transportation to be completed for a Medicaid participant. (3-17-22)

**871. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: DUTIES OF THE TRANSPORTATION BROKER.**
The transportation broker under contract with the Department is required to: (3-17-22)

**01. Coordinate and Manage**. Coordinate and manage all non-emergency medical transportation services for Medicaid participants statewide. (3-17-22)

**02. Contract With Transportation Providers**. Contract with transportation providers throughout the state to provide non-emergency medical transportation services for Medicaid participants. (3-17-22)

**03. Call Center**. Operate a call center to receive and review non-emergency medical transportation for Medicaid participants meeting the requirements in Section 872 of these rules. (3-17-22)

**04. Authorize Non-Emergency Medical Transportation Services**. Authorize non-emergency medical transportation services for Medicaid participants requesting transportation and who meet the requirements in Section 872 of these rules. (3-17-22)

**05. Reimburse Contracted Transportation Providers**. Reimburse contracted transportation providers for non-emergency medical transportation services meeting the requirements in Section 872 of these rules. (3-17-22)

**06. Safe and Professional Transportation**. Assure that contracted transportation providers deliver non-emergency medical transportation services in a safe and professional manner. (3-17-22)

**872. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: COVERAGE AND LIMITATIONS.**

**01. Non-Emergency Medical Transportation Services**. The transportation broker will reimburse contracted transportation providers for non-emergency medical transportation services under the following conditions: (3-17-22)

**a.** The travel is essential to get to or from a ~~medically necessary Medicaid~~ covered service; ~~(3-17-22)~~( )

**b.** The mode of transportation is the least costly that is appropriate for the medical needs of the participant; (3-17-22)

**c.** The transportation is to the nearest medical provider appropriate to perform the needed services, and transportation is by the most direct route practicable; (3-17-22)

**d.** Other modes of transportation, including personal vehicle, assistance by family, friends, and charitable organizations, are unavailable or impractical under the circumstances; (3-17-22)

**e.** The travel is authorized and scheduled by the transportation broker; and (3-17-22)

**f.** The contracted transportation provider is in compliance with the terms of its contract with the transportation broker. (3-17-22)

**02. Travel-Related Services**. The transportation broker will reimburse a contracted transportation provider for travel-related services under the following circumstances: (3-17-22)

**a.** The reasonable cost of meals actually incurred in transit will be reimbursed for the participant when there is no other practical means of obtaining food. (3-17-22)

**b.** The reasonable cost for lodging actually incurred for the participant will be reimbursed when: (3-17-22)

i. The round trip and the needed medical service cannot be completed in the same day; and (3-17-22)

ii. No less costly alternative is available. (3-17-22)

**c.** The reasonable cost of wages for an attendant will be reimbursed when: (3-17-22)

i. An attendant is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (3-17-22)

ii. No family member or other unpaid attendant is available to accompany the participant. (3-17-22)

**d.** The reasonable cost of meals actually incurred in transit will be reimbursed for one (1) family member or one (1) attendant, when: (3-17-22)

i. Attendant care is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (3-17-22)

ii. There is no other practical means of obtaining food. (3-17-22)

**e.** The reasonable cost of lodging actually incurred will be reimbursed for one (1) family member or one (1) attendant when: (3-17-22)

i. An overnight stay is required to receive the service; (3-17-22)

ii. It is medically necessary or the vulnerability of the participant requires accompaniment for safety; and (3-17-22)

iii. No less costly alternative is available. (3-17-22)

**873. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: REIMBURSEMENT METHODOLOGY.**
The Department will reimburse the ~~NEMT services~~ transportation broker a fixed, actuarially sound amount per member per month based on the cost of efficiently delivered, timely, and safe non-emergency medical transportation for eligible Idaho Medicaid participants and the cost for efficient administration of the brokerage program. ~~(3-17-22)~~( )

**874. -- 879. (RESERVED)**

**SUB AREA: EPSDT SERVICES**
**(Sections 880-889)**

**880. EARLY PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT) SERVICES: DEFINITION.**
Medically necessary services for eligible Medicaid participants under the age of twenty-one (21) are health care, diagnostic services, treatment, and other measures described in Section 1905(a) of the Social Security Act (SSA) necessary to correct or ameliorate defects, physical and mental illness, and conditions discovered by the screening services as defined in Section 1905(r) of the SSA, whether or not such services are covered under the State Plan. Services must be considered safe, effective, and meet acceptable standards of medical practice. (3-17-22)

**881. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES: PARTICIPANT ELIGIBILITY.**
EPSDT services are available to ~~child~~ participants from birth through the month of their twenty-first birthday. ~~(3-17-22)~~( )

**882. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES: COVERAGE AND LIMITATIONS.**

**01. Additional Services**. Any service required as a result of an EPSDT screen and which is currently covered under the scope of the Idaho Medicaid program will not be subject to the existing amount, scope, and duration, but must meet any applicable Department criteria and will be subject to the authorization requirements of those rules. ~~(3-17-22)~~( )

**02. Medically Necessary**. The need for additional services must be documented by the attending

physician as medically necessary. (3-17-22)

**03. Prior Authorization**. Any service requested, that is covered under Title XIX or Title XXI of the Social Security Act, that is not identified in these rules specifically as a Medicaid-covered service will require prior authorization prior to payment for that service. (3-17-22)

~~**04. Services Not Covered**. The Department will not cover services for cosmetic, convenience, or comfort reasons.~~ ~~(3-17-22)~~

**054. Hearing Aids Under EPSDT**. (3-17-22)

**a.** When binaural aids are requested they will be authorized if documented to the Department's satisfaction, that the child's ability to learn would be severely restricted. (3-17-22)

**b.** When replacement hearing aids are requested, they may be authorized if the requirements in Subsections 742.01.a., 742.01.b., and 742.03 are met. (3-17-22)

~~**c.** The Department will purchase additional ear molds after the initial six (6) months to one (1) year period if medically necessary. Requests in excess of every six (6) months will require prior authorization and documentation of medical need from either the attending physician or audiologist.~~ ~~(3-17-22)~~

**065. Eyeglasses Under EPSDT**. (3-17-22)

**a.** In the case of a major visual change, the Department can authorize purchase of a second pair of eyeglasses and can authorize a second eye examination to determine that visual change. (3-17-22)

**b.** The Department may pay for replacement of lost glasses or replacement of broken frames or lenses. New frames will not be purchased if the broken frame can be repaired for less than the cost of new frames if the provider indicates one (1) of these reasons on their claim. If repair costs are greater than the cost of new frames, new frames may be authorized. (3-17-22)

**883. -- 889. (RESERVED)**

**SUB AREA: SPECIFIC PREGNANCY-RELATED SERVICES**
**(Sections 890-899)**

**890. PREGNANCY-RELATED SERVICES: DEFINITIONS.**

**01. Individual and Family Social Services**. Services directed at helping a participant to overcome social or behavioral problems that may adversely affect the outcome of the pregnancy. (3-17-22)

**02. Maternity Nursing Visit**. Office visits by a licensed registered nurse, acting within the limits of the Nurses Practices Act, for the purpose of checking the progress of the pregnancy. (3-17-22)

**03. Nursing Services**. Home visits by a licensed registered nurse to assess the participant's living situation and provide appropriate education and referral during the covered period. (3-17-22)

**04. Nutritional Services**. Nutritional services are described in Sections 630 through 635 of these rules. (3-17-22)

**05. Risk Reduction Follow-Up**. Services to assist the participant in obtaining medical, educational, social and other services necessary to assure a positive pregnancy outcome. (3-17-22)

**891. (RESERVED)**

**892. PREGNANCY-RELATED SERVICES: COVERAGE AND LIMITATIONS.**
When ordered by the participant's attending ~~physician or licensed practitioner of the healing arts~~ provider, payment of

the following services is available after confirmation of pregnancy and extending through the end of the month in which the sixtieth day following delivery occurs. ~~(3-17-22)~~( )

**01. Individual and Family Social Services**. Limited to two (2) visits during the covered period. (3-17-22)

**02. Maternity Nursing Visit**. These services are only available to women unable to obtain a ~~physician or licensed practitioner of the healing arts~~ provider to provide prenatal care. This service is to end immediately when a primary physician is found. A maximum of nine (9) visits can be authorized. ~~(7-1-24)~~( )

**03. Nursing Services**. Limited to two (2) visits during the covered period. (3-17-22)

**04. Nutrition Services**. As described in Sections 630 through 632 of these rules. (7-1-24)

**05. Qualified Provider Risk Assessment and Plan of Care**. When prior authorized by the Department, payment is made for qualified provider services in completion of a standard risk assessment and plan of care for women unable to obtain a primary care ~~physician, nurse practitioner, or nurse midwife~~ provider for the provision of antepartum care. ~~(3-17-22)~~( )

**06. Risk Reduction Follow-Up**. (7-1-24)

**893. ~~PREGNANCY-RELATED SERVICES: PROCEDURAL REQUIREMENTS.~~(RESERVED)**
~~Pregnancy-related services described in Sections 890 through 892 of these rules must be prior authorized by the Department.~~ ~~(3-17-22)~~

**894. PREGNANCY-RELATED SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**
Covered ~~S~~services ~~must be~~ are: ~~(3-17-22)~~( )

**01. Risk Reduction Follow-Up**. Provided by a licensed social worker, RN, nurse midwife, physician, NP, or PA either in independent practice or as employees of entities that have current provider agreements with the Department. (7-1-24)

**02. Individual and Family Social Services**. Provided by a licensed social worker qualified to provide individual counseling (7-1-24)

**895. PREGNANCY-RELATED SERVICES: PROVIDER REIMBURSEMENT.**

~~**01. Rates**. Rate of payment for pregnancy-related services is established under the provisions of Section 230 of these rules.~~ ~~(3-17-22)~~

~~**02. Risk Reduction Followup Services.**~~ A single payment will be made for each month of risk reduction follow-up service~~s~~ provided. ~~(3-17-22)~~( )

**896. -- 899. (RESERVED)**

## INVESTIGATIONS, AUDITS, AND ENFORCEMENT
## (Sections 900 - 999)

### SUB AREA: LIENS AND ESTATE RECOVERY
### (Sections 900-909)

**900. LIENS AND ESTATE RECOVERY.**
In accordance with Sections 55-819, 56-218, 56-218A, and 56-225, Idaho Code, this Section of rule sets forth the provisions for recovery of medical assistance, the filing of liens against the property of deceased persons, the filing of liens against the property of permanently institutionalized participants, and the recording of requests for notice. (3-17-22)

**01. Medical Assistance Incorrectly Paid**. The Department may, in accordance with a judgment of a court, file a lien against the property of a living or deceased person of any age to recover the costs of medical assistance incorrectly paid. (3-17-22)

~~**02. Administrative Appeals**. Permanent institutionalization determination, undue hardship waiver, and request for notice hearings are governed by the fair hearing provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ ~~(3-17-22)~~

**901. LIENS AND ESTATE RECOVERY: DEFINITIONS.**
The following terms are applicable to Sections 900 through 909 of these rules: (3-17-22)

**01. Adequate Consideration**. An act, object, services, or other benefit which has a tangible and/or intrinsic value that is equivalent to or greater than the fair market value of the transferred asset. ( )

**0~~1~~2. Authorized Representative**. The person appointed by the court as the personal representative in a probate proceeding or~~, if none,~~ the person identified by the participant to receive notice and make decisions on estate matters. ~~(3-17-22)~~( )

**0~~2~~3. Discharge From a Medical Institution**. A medical decision made by a competent~~ medical professional~~ provider that the Medicaid participant no longer needs nursing home care because the participant's condition has improved, or the discharge is not medically contraindicated. ~~(3-17-22)~~( )

~~**03. Equity Interest in a Home**. Any equity interest in real property recognized under Idaho law.~~ ~~(3-17-22)~~

~~**04. Estate**. All real and personal property and other assets including those in which the participant had any legal or beneficial title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assignee of the deceased participant through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.~~ ~~(3-17-22)~~

**0~~5~~4. Home**. The dwelling in which the participant has an ownership interest, and which the participant occupied as their primary dwelling prior to, or subsequent to, their admission to a medical institution. (3-17-22)

**0~~6~~5. Institutionalized Participant**. An inpatient in a nursing facility (NF), intermediate care facility for people with intellectual disabilities (ICF/IID), or other medical institution, who is a Medicaid participant subject to post-eligibility treatment of income in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (3-17-22)

**0~~7~~6. Lawfully Residing**. Residing in a manner not contrary to or forbidden by law, and with the participant's knowledge and consent. (3-17-22)

**0~~8~~7. Permanently Institutionalized**. An institutionalized participant of any age who the Department has determined cannot reasonably be expected to be discharged from the institution and return home. Discharge refers to a medical decision made by a competent~~ medical professional~~ provider that the participant is physically able to leave the institution and return to live at home. ~~(3-17-22)~~( )

**0~~9~~8. Personal Property**. Any property that is not real property, including cash, jewelry, household goods, tools, life insurance policies, boats, and wheeled vehicles. ~~(3-17-22)~~( )

**~~1~~09. Real Property**. Any land, including buildings or immovable objects attached permanently to the land. (3-17-22)

**1~~1~~0. Residing in the Home on a Continuous Basis**. Occupying~~ the home as the primary dwelling~~ and continuing to occupy~~ such dwelling~~ the home as the primary residence. ~~(3-17-22)~~( )

**1~~2~~1. Termination of a Lien**. The release or dissolution of a lien from property. (3-17-22)

**132.** **Undue Hardship**. Conditions that justify waiver or deferral of all or a part of the Department's claim against an estate, described in Subsections 905.06 through 905.10 of these rules. ~~(3-17-22)~~( )

**143.** **Undue Hardship Waiver**. A decision made by the Department to relinquish, limit, or defer its claim to any or all estate assets of a deceased participant based on good cause. (3-17-22)

**902. LIENS AND ESTATE RECOVERY - NOTIFICATION TO DEPARTMENT.**
All notification regarding liens, estate claims, and requests for notice must be directed to the Department of Health and Welfare, Estate Recovery Unit, 450 W. State Street, 6th Floor, Boise, Idaho 83702. (3-17-22)

**903. LIENS AND ESTATE RECOVERY: LIEN DURING LIFETIME OF PARTICIPANT.**

**01. Lien Imposed During Lifetime of Participant**. During the lifetime of the permanently institutionalized participant, and subject to the restrictions set forth in Subsection 903.04 of this rule, the Department may impose a lien against the real property of the participant for medical assistance correctly paid on their behalf. The lien must be filed within ninety (90) days of the Department's final determination, after notice and opportunity for a hearing, that the participant is permanently institutionalized. The lien is effective from the beginning of the most recent continuous period of the participant's institutionalization~~, but not before July 1, 1995~~. Any lien imposed will dissolve upon the participant's discharge from the medical institution and return home. ~~(3-17-22)~~( )

**02. Determination of Permanent Institutionalization**. The Department must determine that the participant is permanently institutionalized prior to the lien being imposed. An expectation or plan that the participant will return home with the support of Home and Community Based Services does not, in and of itself, justify a decision that they are reasonably expected to be discharged to return home. The following factors must be considered when making the determination of permanent institutionalization: (3-17-22)

**a.** The participant must meet the criteria for nursing facility or ICF/IID level of care and services as set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 220 through 299, and 580 through 649; (3-17-22)

**b.** The medical records must be reviewed to determine if the participant's condition is expected to improve to the extent that they will not require nursing facility or ICF/IID level of care; and (3-17-22)

**c.** Where the prognosis indicated in the medical records is uncertain or inconclusive, the Department may request additional medical information, or may delay the determination until the next utilization control review or annual Inspection of Care review, as appropriate. (3-17-22)

**03. Notice of Determination of Permanent Institutionalization and Hearing Rights**. The Department must notify the participant or their authorized representative, in writing, of its intention to make a determination that the participant is permanently institutionalized, and that they have the right to a fair hearing in accordance with Subsection 900.02 of these rules. This notice must inform the participant of the following information, at a minimum: (3-17-22)

**a.** The Department's decision that they cannot reasonably be expected to be discharged from the medical institution to return home is based upon a review of the medical records and plan of care, but that this does not preclude them from returning home with services necessary to support nursing facility or ICF/IID level of care; and (3-17-22)

**b.** They or their authorized representative may request a fair hearing prior to the Department's final determination that they are permanently institutionalized. The notice must include information that a pre-hearing conference may be scheduled prior to a fair hearing. The notice must include the time limits and instructions for requesting a fair hearing. (3-17-22)

**c.** If they or their authorized representative does not request a fair hearing within the time limits specified, their real property, including their home, may be subject to a lien, contingent upon the restrictions in Subsection 903.04 of this rule. (3-17-22)

**04. Restrictions on Imposing Lien During Lifetime of Participant**. A lien may be imposed on the participant's real property; however, no lien may be imposed on the participant's home if any of the following is lawfully residing in such home: (3-17-22)

**a.** The spouse of the participant; (3-17-22)

**b.** The participant's child who is under age twenty-one (21), or who is blind or disabled as defined in 42 U.S.C. 1382c as amended; or (3-17-22)

**c.** A sibling of the participant who has an equity interest in the participant's home and who was residing in such home for a period of at least one (1) year immediately before the date of the participant's admission to the medical institution, and who has been residing in the home on a continuous basis. (3-17-22)

**05. Restrictions on Recovery on Lien Imposed During Lifetime of Participant**. Recovery will be made on the lien from the participant's estate, or at any time upon the sale of the property subject to the lien, but only after the death of the participant's surviving spouse, if any, and only at a time when: (3-17-22)

**a.** The participant has no surviving child who is under age twenty-one (21); (3-17-22)

**b.** The participant has no surviving child of any age who is blind or disabled as defined in 42 U.S.C. 1382c as amended; and (3-17-22)

**c.** In the case of a lien on a participant's home, when none of the following is lawfully residing in such home who has lawfully resided in the home on a continuous basis since the date of the participant's admission to the medical institution: (3-17-22)

i. A sibling of the participant, who was residing in the participant's home for a period of at least one (1) year immediately before the date of the participant's admission to the medical institution; or (3-17-22)

ii. A son or daughter of the participant, who was residing in the participant's home for a period of at least two (2) years immediately before the date of the participant's admission to the medical institution, and who establishes by a preponderance of the evidence that they provided necessary care to the participant, and the care they provided allowed the participant to remain at home rather than in a medical institution. (3-17-22)

**06. Recovery Upon Sale of Property Subject to Lien Imposed During Lifetime of Participant**. Should the property upon which a lien is imposed be sold ~~prior to the participant's death~~, the Department will seek recovery of all medical assistance paid on behalf of the participant, subject to the restrictions in Subsection 903.05 of this rule. Recovery of the medical assistance paid on behalf of the participant from the proceeds from the sale of the property does not preclude the Department from recovering additional medical assistance paid from the participant's estate as described in Subsection 904.01 of these rules. ~~(3-17-22)~~( )

**07. Filing of Lien During Lifetime of Participant**. When appropriate, the Department will file, in the office of the Recorder of the county in which the real property of the participant is located, a verified statement, in writing, setting forth the following: (3-17-22)

**a.** The name and last known address of the participant; and (3-17-22)

**b.** The name and address of the official or agent of the Department filing the lien; and (3-17-22)

**c.** A brief description of the medical assistance received by the participant; and (3-17-22)

**d.** The amount paid by the Department, as of a given date, and, if applicable, a statement that the amount of the lien will increase as long as medical assistance benefits are paid on behalf of the participant. (3-17-22)

**08. Renewal of Lien Imposed During Lifetime of Participant**. The lien, or any extension thereof, must be renewed every five (5) years by filing a new verified statement as required in Subsection 903.07 of this rule,

or as required by Idaho law. (3-17-22)

**09. Termination of Lien Imposed During Lifetime of Participant**. The lien will be released as provided by Idaho Code, upon satisfaction of the Department's claim. The lien will dissolve in the event of the participant's discharge from the medical institution and return home. Such dissolution of the lien does not discharge the underlying debt and the estate remains subject to recovery under estate recovery provisions in Sections 904 and 905 of these rules. (3-17-22)

**904. LIENS AND ESTATE RECOVERY: REQUIREMENTS FOR ESTATE RECOVERY.**

**01. Estate Recovery Requirements**. In accordance Sections 56-218 and 56-218A, Idaho Code, the Department is required to recover the following: (3-17-22)

**a.** The costs of all medical assistance correctly paid on or after July 1, 1995, on behalf of a participant who was permanently institutionalized; and ~~(3-17-22)~~( )

**b.** The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age fifty-five (55) or older on or after July 1, 1994~~; and~~. ~~(3-17-22)~~( )

~~**c.** The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age sixty-five (65) or older on or after July 1, 1988.~~ ~~(3-17-22)~~

**02. Recovery From Estate of Spouse**. Recovery from the estate of the spouse of a Medicaid participant may be made as permitted in Sections 56-218 and 56-218A, Idaho Code. (3-17-22)

**03. Lien Imposed Against Estate of Deceased Participant**. Liens may be imposed against the estates of deceased Medicaid participants and their spouses as permitted by Section 56-218, Idaho Code. (3-17-22)

**04. Notice of Estate Claim**. The Department will notify the authorized representative of the amount of the estate claim after the death of the participant, or after the death of the surviving spouse. The notice must include instructions for applying for an undue hardship waiver. (3-17-22)

**05. Assets in Estate Subject to Claims**. ~~The authorized representative will be notified of the Department's claim against the assets of a deceased participant.~~ Assets in the estate from which the claim can be satisfied must include all real or personal property that the deceased participant owned or in which they had an ownership interest, including the following: ~~(3-17-22)~~( )

**a.** Payments to the participant under an installment contract will be included among the assets of the deceased participant. This includes an installment contract on any real or personal property to which the deceased participant had a property right. The value of a promissory note, loan or property agreement is its outstanding principal balance at the date of death of the participant. When a promissory note, loan, or property agreement is secured by a Deed of Trust, the Department may request evidence of a reasonable and just underlying debt. (3-17-22)

**b.** The deceased participant's ownership interest in another person's estate, probated or not probated, is an asset of their estate when: ~~(3-17-22)~~( )

i. Documents show the deceased participant is an eligible devisee or donee of property of another deceased person; or (3-17-22)

ii. The deceased participant received income from property of another person; or (3-17-22)

iii. State intestacy laws award the deceased participant a share in the distribution of the property of another estate. (3-17-22)

**c.** Any trust instrument that is designed to hold or to distribute funds or property, real or personal, in which the deceased participant had a beneficial interest is an asset of the estate. (3-17-22)

**d.** Life insurance is considered an asset when it has reverted to the estate. (3-17-22)

**e.** Burial insurance is considered an asset when a funeral home is the primary beneficiary or when there are unspent funds in the burial contract. Any funds remaining after payment to the funeral home will be considered assets of the estate. (3-17-22)

**f.** Checking and savings accounts that hold and accumulate funds designated for the deceased participant are assets of the estate, including joint accounts that accumulate funds for the benefit of the participant. (3-17-22)

**g.** In a conservatorship situation, if a court order under state law specifically requires funds be made available for the care and maintenance of a participant prior to their death, absent evidence to the contrary, such funds are an asset of the deceased participant's estate, even if a court has to approve release of the funds. (3-17-22)

**h.** Shares of stocks, bonds and mutual funds to the benefit of the deceased participant are assets of the estate. ~~The current market value of all stocks, bonds and mutual funds must be proved as of the month preceding settlement of the estate claim.~~ ~~(3-17-22)~~( )

**06. Value of Estate Assets**. The Department will use fair market value as the value of the estate assets. (3-17-22)

## 905. LIENS AND ESTATE RECOVERY: LIMITATIONS AND EXCLUSIONS.

**01. Limitations on Estate Claims**. Limits on the Department's claim against the assets of a deceased participant or spouse are subject to Sections 56-218 and 56-218A, Idaho Code. A claim against the estate of a spouse of a participant is limited to the value of the assets of the estate that had been, at any time after October 1, 1993, community property, or the deceased participant's share of the separate property, and jointly owned property. ~~Recovery will not be made until the deceased participant no longer is survived by a spouse, a child who is under age twenty-one (21), or a blind or disabled child, as defined in 42 U.S.C. 1382c as amended and, when applicable, as provided in Subsection 903.05 of these rules.~~ No recovery will be made if the participant received medical assistance as the result of a crime committed against the participant. ~~(3-17-22)~~( )

**02. Expenses Deducted From Estate**. The following expenses may be deducted from the available assets to determine the amount available to satisfy the Department's claim: (3-17-22)

**a.** ~~Burial~~Funeral expenses~~, which include only those reasonably necessary for embalming, transportation of the body, cremation, flowers, clothing, and services of the funeral director and staff may be deducted~~ reasonably necessary for burial or cremation services approved on a case by case basis at the discretion of the Department. ~~(3-17-22)~~( )

**b.** ~~Other legally enforceable and necessary debts with priority may be deducted. The Department's claim is classified and paid as a debt with preference as defined in Section 15-03-805, Idaho Code. Debts of the deceased participant that may be deducted from the estate prior to satisfaction of the Department's claim must be legally enforceable debts given preference over the Department's claim under Section 15-03-805~~Administrative expenses of the estate may be deducted in accordance with Section 56-218, Idaho Code. ~~(3-17-22)~~( )

**03. Interest on Claim**. The Department's claim does not bear interest ~~except as otherwise provided by statute or agreement~~ until the claim becomes recoverable. Interest on the claim accrues at the legal rate of interest. ~~(3-17-22)~~( )

**04. Excluded Land**. Restricted allotted land, owned by a deceased participant who was an enrolled member of a federally recognized American Indian tribe, or eligible for tribal membership, which cannot be sold or transferred without permission from the Indian tribe or an agency of the Federal Government, will not be subject to estate recovery. (3-17-22)

**05. Certain Life Estates**. The value of a life estate owned by a Medicaid participant or their spouse

will not be subject to estate recovery if: (3-17-22)

**a.** Neither the Medicaid participant or their spouse ever owned the remainder interest; or (3-17-22)

**b.** The life estate was created prior to July 1, 1995. (3-17-22)

**06. Marriage Settlement Agreement or Other Such Agreement**. A marriage settlement agreement or other such agreement that separates assets for a married couple does not eliminate the debt against the estate of the deceased participant or the spouse. Transfers under a marriage settlement agreement or other such agreement may be voided if not for adequate consideration. (3-17-22)

~~**07. Release of Estate Claims**. The Department will release a claim when the Department's claim has been fully satisfied and may release its claim under the following conditions:~~ ~~(3-17-22)~~

~~**a.** When an undue hardship waiver as defined in Subsection 905.07 of this rule has been granted; or~~ ~~(3-17-22)~~

~~**b.** When a written agreement with the authorized representative to pay the Department's claim in thirty-six (36) monthly payments or less has been achieved.~~ ~~(3-17-22)~~

0~~8~~7. **Purpose of the Undue Hardship Exception**. The undue hardship exception is intended to avoid the impoverishment of the deceased participant's family due to the Department exercising its estate recovery right. The fact that family members anticipate or expect an inheritance, or will be inconvenienced economically by the lack of an inheritance, is not cause for the Department to declare an undue hardship. (3-17-22)

0~~9~~8. **Application for Undue Hardship Waiver**. An applicant for an undue hardship waiver must have a beneficial interest in the estate and must apply for the waiver within ninety (90) days of the death of the participant or within thirty (30) days of receiving notice of the Department's claim, whichever is later. The filing of a claim by the Department in a probate proceeding constitutes notice to all heirs. (3-17-22)

~~1~~09. **Basis for Undue Hardship Waiver**. Undue hardship waivers will be considered in the following circumstances: (3-17-22)

**a.** The estate subject to recovery is income-producing property that provides the ~~primary~~ sole source of support for ~~other family members~~ heirs; or ~~(3-17-22)~~( )

**b.** Payment of the Department's claim would cause heirs of the deceased participant to be eligible for public assistance; or (3-17-22)

**c**. The Department's claim is less than five hundred dollars ($500) or the total assets of the entire estate are less than five hundred dollars ($500), excluding trust accounts or other bank accounts. (3-17-22)

~~**d.** The participant received medical assistance as the result of a crime committed against the participant.~~ ~~(3-17-22)~~

1~~1~~0. **Limitations on Undue Hardship Waiver**. ~~Any beneficiary of the estate of a deceased participant may apply for waiver of the estate recovery claim based on undue hardship.~~ Any claim may be waived or deferred by the Department, partially or fully, because of undue hardship. An undue hardship does not exist if action taken by the participant prior to their death, or by their legal representative, divested or diverted assets from the estate. The Department grants undue hardship waivers on a case-by-case basis upon review of all facts and circumstances, including any action taken to diminish assets available for estate recovery or to circumvent estate recovery. ~~(3-17-22)~~( )

1~~2~~1. **Set Aside of Transfers**. Transfers of real or personal property of the participant without adequate consideration are voidable and may be set aside by the district court whether or not the asset transfer resulted, or could have resulted, in a period of ineligibility. (3-17-22)

**906. LIENS AND ESTATE RECOVERY: REQUEST FOR NOTICE.**

**01. ~~Request for Notice —~~Notice - Hearing**. The Department must notify the participant or their authorized representative, in writing, of its intention to record a request for notice, and that they have the right to a fair hearing in accordance with Subsection 900.02 of these rules. The notice must inform the participant of the following information~~, at a minimum~~: ~~(3-17-22)~~( )

**a.** The Department's determination that they are the record titleholder or purchaser under a land sale contract of real property subject to a request for notice; (3-17-22)

**b.** They or their authorized representative may request a fair hearing prior to the Department's recording a request for notice. The notice must include the time limits and instructions for requesting a fair hearing; and (3-17-22)

**c.** If they or their authorized representative do not request a fair hearing within the time limits specified, a request for notice applying to their real property, including their home, may be recorded. (3-17-22)

**02. ~~Request for Notice —~~Forms - Content**. The notices must include~~, at a minimum,~~ the following information: ~~(3-17-22)~~( )

**a.** The name of the public assistance recipient and the spouse of such public assistance recipient, if any; (3-17-22)

**b.** The Medicaid number for the public assistance recipient and spouse, if any; (3-17-22)

**c.** The legal description of the real property affected or to be affected; (3-17-22)

**d.** The mailing address at which the Department is to receive notice as provided in Section 902 of these rules; (3-17-22)

**e.** If the document is a Notice of Transfer or Encumbrance, the name and address of the transferee or lien holder; and (3-17-22)

**f.** A fully executed acknowledgment as required for recording under Section 55-805, Idaho Code. (3-17-22)

**03. Webpages for Forms**. The forms may be found at: (3-17-22)

**a.** Notice of Transfer or Encumbrance at http://healthandwelfare.idaho.gov. (3-17-22)

**b.** Request for Notice at http://healthandwelfare.idaho.gov. (3-17-22)

**c.** Termination of Request for Notice at http://healthandwelfare.idaho.gov. (3-17-22)

**907. -- 909. (RESERVED)**

**SUB AREA: PARTICIPANT LOCK-IN**
**(Sections 910 - 918)**

**910. PARTICIPANT UTILIZATION CONTROL PROGRAM.**
This Program is ~~designed~~ to promote improved and cost-efficient medical management of essential health care by monitoring participant activities and taking action to correct abuses. Participants demonstrating unreasonable patterns of utilization or exceeding reasonable levels of utilization~~, or both,~~ will be reviewed for restriction. The Department may require a participant to designate a primary ~~physician~~ provider or a single pharmacy ~~or both~~ for exclusive provider services in an effort to protect the individual's health and safety, provide continuity of medical care, avoid duplication of services by providers, avoid inappropriate or unnecessary utilization of medical assistance~~, and avoid excessive utilization of prescription medications~~. ~~(3-17-22)~~( )

**911. LOCK-IN DEFINED.**
Lock-in is the process of restricting the access of a participant to a specific provider or providers. (3-17-22)

**912. DEPARTMENT EVALUATION FOR LOCK-IN.**
The Department will ~~review participants to~~ determine if services are being utilized at a frequency or amount that ~~results in a level of utilization or a pattern of services that~~ is not medically necessary. Evaluation~~s of utilization patterns~~ can include review ~~by the Department staff~~ of medical records or computerized reports~~, or both, generated by the Department~~ reflecting claims ~~submitted for physician visits, drugs/prescriptions, outpatient and emergency room visits, lab or diagnostic procedures, or both, hospital admissions, and referrals~~. ~~(3-17-22)~~( )

**913. CRITERIA FOR LOCK-IN.**
~~Since it is impossible to identify all possible patterns of over utilization, and since a particular pattern may be justified based on individual conditions,~~There is no specific criteria for lock-in ~~will be developed~~ as each case is unique. ~~However, t~~The Department may develop non-binding guidelines for purposes of uniformity. ~~The guidelines will not be binding on the Department and will not limit or restrict the ability of the Department to impose lock-in when any pattern of over utilization is identified.~~ The following utilization patterns may be considered abusive, not medically necessary, potentially endangering the participant's health and safety, or over utilization of Medicaid services, and may result in the restriction of Medicaid reimbursement for a participant to a single provider or providers:
~~(3-17-22)~~( )

**01. Unnecessary Use of Providers or Services, Including Excessive Provider Visits**. ~~Unnecessary use of providers or Medicaid services, including excessive provider visits.~~ ~~(3-17-22)~~( )

**02. Demonstrated Abusive Patterns**. Recommendation from a ~~medical professional or the participant's primary care physician~~ provider that the participant has demonstrated abusive patterns and would benefit from the lock-in program. ~~(3-17-22)~~( )

**03. Use of Emergency Room ~~Facilities~~**. Frequent use of emergency room ~~facilities~~ for non-emergent conditions. ~~(3-17-22)~~( )

**04. Multiple Providers**. ~~Use of multiple providers.~~ ~~(3-17-22)~~( )

**05. Controlled Substances**. ~~Use of multiple controlled substances.~~ ~~(3-17-22)~~( )

**06. Use of Multiple Prescribing ~~Physicians~~ Providers or Pharmacies**. ~~Use of multiple prescribing physicians or pharmacies, or both.~~ ~~(3-17-22)~~( )

**07. Overlapping Prescription Drugs ~~and~~ With the Same Therapeutic Classes**. ~~Overlapping prescription drugs with the same therapeutic class.~~ ~~(3-17-22)~~( )

**08. Drug Abuse**. ~~Diagnosis of drug abuse or drug withdrawal, or both.~~ ~~(3-17-22)~~( )

**09. Drug-Seeking Behavior**. ~~Drug seeking behavior a~~As identified by a ~~medical professional~~ provider. ~~(3-17-22)~~( )

**10. Other Abusive Utilization**. ~~Use of drugs or other Medicaid services determined to be abusive~~ As determined by the Department's medical or pharmacy consultant. ~~(3-17-22)~~( )

**914. LOCK-IN PARTICIPANT NOTIFICATION.**
A participant ~~who has been~~ designated by the Department for the Participant Utilization Control Program will be notified in writing by the Department of the action and the participant's right of appeal by means of a fair hearing.
~~(3-17-22)~~( )

**915. LOCK-IN PROCEDURES.**

**01. Participant Responsibilities**. The participant will be given thirty-five (35) days to contact the

Regional Program Manager ~~or designee~~ and complete and sign the lock-in agreement form and select designated provider(s) in each area of misuse. ~~(3-17-22)~~( )

**02. Appeal Stays Restriction**. The Department will not implement the participant restriction if a valid appeal is noted in accordance with Section 917 of these rules. (3-17-22)

**03. Lock-In Duration**. The Department will restrict participants to their designated providers for a time period determined by the Department. Upon review at the end of that period, lock-in may be extended for an additional period determined by the Department. (3-17-22)

**04. Payment to Providers**. Payment to provider~~(s)~~ other than the designated lock-in ~~physician~~ provider or pharmacy is limited to documented emergencies or written referrals from the primary ~~physician~~ provider. ~~(3-17-22)~~( )

**05. Regional Programs Manager**. The Regional Programs Manager~~, or designee~~ will: ~~(3-17-22)~~( )

**a.** Clearly describe the participant's appeal rights ~~in accordance with the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings"~~; ~~(3-17-22)~~( )

**b.** Specify the effective date and length of the restriction; (3-17-22)

**c.** Have the participant choose a designated provider or providers; and (3-17-22)

**d**. Mail the completed lock-in agreement to the Surveillance and Utilization Unit. Upon receipt of the lock-in agreement, the participant's Medicaid services will be immediately restricted to the designated providers. (3-17-22)

**916. PENALTIES FOR LOCK-IN NONCOMPLIANCE.**
If a participant fails to respond to the notification of medical restriction~~(s)~~, fails to sign the lock-in agreement, or fails to select a primary ~~physician~~ provider within the specified time period, the Medicaid benefits will be restricted to documented emergencies only. If a participant continues to abuse or over-utilize items or services after being identified for lock-in, the Department may terminate medical assistance benefits for a specified period of time as determined by the Department. ~~(3-17-22)~~( )

**917. APPEAL OF LOCK-IN.**
Department determinations to lock-in a participant may be appealed ~~in accordance with the fair hearings provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," of the Department~~. ~~(3-17-22)~~( )

**918. RECIPIENT EXPLANATION OF MEDICAID BENEFITS (REOMBS).**

~~**01. Monthly Surveys**. The Department will conduct monthly surveys of services rendered to medical assistance participants using REOMBs.~~ ~~(3-17-22)~~

**0~~2~~1. Participant Response**. A ~~medical assistance~~ participant is required to respond to the Department's explanation of medical benefits survey whenever they are aware of discrepancies. ~~(3-17-22)~~( )

**0~~3~~2. Participant Unable to Respond**. If the participant is unable, because of medical or physical limitations, to respond to the survey personally, then a responsible family member or friend can respond on their behalf. (3-17-22)

~~**04. Medicare-to-Medicaid Cross-Over Claims**. All claims processed through the cross-over system will be subject to these rules. All providers submitting cross-over claims must comply with the terms of their provider agreements.~~ ~~(3-17-22)~~

**919. -- 999. (RESERVED)**

## APPENDIX A

## IDAHO MEDICAID HANDICAPPING MALOCCLUSION INDEX

| OVERBITE: | MEASUREMENT/POINTS: | SCORE: |
|---|---|---|
| Lower incisors: striking lingual of uppers at incisal | 1/3 = 0 | |
| Striking lingual of uppers at middle | 1/3 = 1 | |
| Striking lingual of uppers at gingival | 1/3 = 2 | |
| **OPENBITE:** (millimeters) *a,b | | |
| Less than…… | 2 mm = 0 | |
| | 2-4 mm = 1 | |
| | 4+ mm = 2 | |
| **OVERJET:** (millimeters) *a | | |
| Upper…… | 2-4 mm = 0 | |
| Measure horizontally parallel to occlusal plane. | 5-9 mm = 1 | |
| | 9+ mm = 2 | |
| Lower…… | 0-1 mm = 0 | |
| | 2 mm = 1 | |
| | 3+ mm = 2 | |
| **POSTERIOR X-BITE:** (teeth) *b | | |
| Number of teeth in x-bite: | 0-2 = 0 | |
| | 3 = 1 | |
| | 4 = 2 | |
| **TOOTH DISPLACEMENT:** (teeth) *c, d, e | | |
| Number of teeth rotated 45 degrees or displaced 2mm from normal position in arch. | 0-2 = 0<br>3-6 = 1<br>7+ = 2 | |
| **BUCCAL SEGMENT RELATIONSHIP:** | | |
| One side distal or mesial ½ cusp | = 0 | |
| Both sides distal or mesial or one side full cusp | = 1 | |
| Both sides full cusp distal or mesial | = 2 | |

| ~~OVERBITE:~~ | ~~MEASUREMENT/POINTS:~~ | ~~SCORE:~~ |
|---|---|---|
| | | ~~TOTAL SCORE:~~ |

~~Scoring Definitions:~~

**a.** ~~Impacted or blocked cuspids are scored 1 open bite and 1 over jet for two teeth. Score 2 for open bite and 2 for over jet for 4 blocked cuspids.~~

**b.** ~~Cross bites are scored for the teeth in cross bite, not the teeth in the opposing arch.~~

**c.** ~~Missing teeth count as 1, if the space is still present.~~

**d.** ~~Do not score teeth that are not fully erupted.~~

**e.** ~~Displaced teeth are based on where they are in their respective arch line, not their relationship with the opposing arch.~~

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.03.13 – CONSUMER-DIRECTED SERVICES

## DOCKET NO. 16-0313-2401 (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 Section 56-202, Idaho Code, and Sections 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Tuesday, September 17, 2024**<br>**3:00-4:00pm (MT)** |
| **Join from the meeting link**<br>https://idhw.webex.com/idhw/j.php?MTID=m972f893ca3d602dc4789422a7d9645b8<br><br>**Join by meeting number**<br>**Meeting number (access code): 2824 593 1654**<br>Meeting password: **afJ7MM3knT8**<br>**Meeting password from phone: 23576635**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Friday, September 20, 2024**<br>**1:00-2:00pm (MT)** |
| **Join from the meeting link**<br>https://idhw.webex.com/idhw/j.php?MTID=m5a02962a5e30ebdbeded877a70e4f485<br><br>**Join by meeting number**<br>**Meeting number (access code): 2822 493 8845**<br>Meeting password:**24TMmJaWM3a**<br>**Meeting password from phone: 24866529**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

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:

Under Executive Order 2020-01: Zero-Based Regulation, the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language.

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

There is no fiscal impact to the state General Fund or any other funds.

**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 May 1, 2024, Idaho Administrative Bulletin, Volume 24-5, pages 202 through 203.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 22nd day of July, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0313-2401**
**(ZBR Chapter Rewrite)**

## 16.03.13 – CONSUMER-DIRECTED SERVICES

**000. LEGAL AUTHORITY.**
~~In accordance with~~ Sections 56-202, 56-203, Sections 56-250 through 257, and Sections 56-260 through 56-266, Idaho Code~~, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the provision of consumer-directed services~~. ~~(3-17-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title**. These rules are titled IDAPA 16.03.13, "Consumer-Directed Services." (3-17-22)~~

~~**02. Scope.**~~ Consumer-Directed Community Supports (CDCS) is a flexible program option for participants eligible for the Children's Home and Community Based Services (HCBS) State Plan Option, and Adult and Children's Developmental Disabilities (DD) waivers. CDCS is not a covered option for participants enrolled in the Children's Act Early Waiver. The CDCS option allows the eligible participant to: choose the type and frequency of supports they want, negotiate the rate of payment, and hire the person or agency they prefer to provide those supports. (3-17-22)

~~**002. WRITTEN INTERPRETATIONS.**~~
~~This agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection. (3-17-22)~~

**00~~3~~2. -- 00~~7~~8. (RESERVED)**

~~**008. AUDIT, INVESTIGATION AND ENFORCEMENT.**~~
~~In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-17-22)~~

**009. BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Background Check**. The ~~fiscal employer agent~~ FEA must verify that each ~~support broker~~ SB and ~~community support worker~~ CSW~~, whose background check has not been waived by the participant,~~ has ~~complied with~~ received a clearance under IDAPA 16.05.06, "Criminal History and Background Checks." ~~When a~~ A participant may choose~~s~~ to waive the background check requirement for a ~~community support worker,~~CSW. ~~the~~ A waiver must be completed under~~in accordance with Section 150 of~~ these rules. ~~(7-1-24)~~( )

**02. Availability to Work or Provide Service**. Participants may review the completed application and allow the ~~community support worker~~ CSW to provide services on a provisional basis if no disqualifying offenses under IDAPA 16.05.06, "Criminal History and Background Checks," are disclosed. ~~(7-1-24)~~( )

~~**03. Additional Criminal Convictions**. Once clearances have been received, any additional criminal convictions must be immediately reported by the worker to the participant and by the participant to the Department. (7-1-24)~~

**0~~4~~3. ~~Notice of Pending~~ Additional Convictions, Investigations, or Charges**. Once clearances have been received, any additional criminal, adult or child protection convictions, charges or investigations ~~for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints~~, must be immediately reported by the worker to the participant and by the participant to the Department. ~~(7-1-24)~~( )

**0~~5~~4. Providers Subject to Background Check Requirements**. ~~A community support worker,~~ CSWs who ~~has~~ have not had the requirement waived by the participant~~, and a support broker as defined in Section 010 of these rules~~ and SBs. ~~(7-1-24)~~( )

**010. DEFINITIONS.**

~~**01. Circle of Supports**. People who encourage and care about the participant and provide unpaid supports. (3-17-22)~~

**0~~2~~1. Community Support Worker (CSW)**. An individual, agency, or vendor selected and paid by the participant to provide ~~community support worker~~ CSW services. ~~(3-17-22)~~( )

~~**03. Community Support Worker Services**. Community support worker services are those identified~~

~~supports listed in Section 110 of these rules.~~ ~~(3-17-22)~~

**042. Consumer-Directed Community Supports (CDCS).** A flexible program option for participants eligible for the Children's Home and Community Based Services (HCBS) State Plan Option, and Adult Developmental Disabilities (DD) waiver. ~~For the purposes of this chapter, consumer directed s~~ Supports include ~~Self-Directed Community Supports (~~ SDCS~~)~~ and ~~Family-Directed Community Supports (~~ FDCS program options described in IDAPA 16.03.10. "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

**053. Family-Directed Community Supports (FDCS).** A program option for children eligible for ~~the Children's Developmental Disabilities (DD) Waiver and the~~ Children's ~~Home and Community Based Services~~ HCBS State Plan Option described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

**064. Financial Management Services (FMS).** Services provided by an FEA. ~~fiscal employer agent that include:~~ ~~(3-17-22)~~

~~**a.** Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (3-17-22)~~

~~**b.** Performing payroll services; and (3-17-22)~~

~~**c.** Handling billing and employment related documentation responsibilities. (3-17-22)~~( )

**075. Fiscal Employer Agent (FEA).** An agency that provides ~~financial management services~~ FMS to participants who have chosen the CDCS option. ~~The fiscal employer agent (~~ FEA~~)~~ is selected by the participant. ~~The duties of the FEA are defined under Section 3504 of the Internal Revenue Code (26 USC 3504).~~ ~~(3-17-22)~~( )

**086. Goods.** Tangible products or merchandise that are authorized on the ~~support and spending plan~~ SSP. ~~(3-17-22)~~( )

**097. Guiding Principles for the CDCS Option.** ~~Consumer-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles:~~ ~~(3-17-22)~~( )

**a.** Freedom for the participant to make choices and plan their own life; (3-17-22)

**b.** Authority for the participant to control resources allocated to them to acquire needed supports; (3-17-22)

**c.** Opportunity for the participant to choose their own supports; (3-17-22)

**d.** Responsibility for the participant to make choices and take responsibility for the result of those choices; and (3-17-22)

**e.** Shared responsibility between the participant and their community to help the participant become an involved and contributing member of that community. (3-17-22)

**~~1~~08. Home and Community Based Services (HCBS).** ~~HCBS are those l~~ Long-term services and supports that assist ~~eligible~~ participants to remain in their home and community. ~~(3-17-22)~~( )

**09. Medical Necessity (Medically Necessary).** A service or item is medically necessary if: ( )

**a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; ( )

**b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly; and ( )

**c.** It meets any applicable Department criteria. Services that do not meet criteria require a prior

authorization; and ( )

**d.** Medical services must be: ( )

i. Of a quality that meets professionally recognized standards of health care; and ( )

ii. Substantiated by records including evidence of such medical necessity and quality. ( )

~~**11. Participant**. A person eligible for and enrolled in the Consumer-Directed Services Programs.~~ ~~(3-17-22)~~

1~~2~~0. **Readiness Review**. A review conducted by the Department to ensure that each ~~fiscal employer agent~~ FEA is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules. ~~(3-17-22)~~( )

**11. Restrictive Intervention**. Any intervention that is used to restrict the rights or freedom of movement of a person and includes chemical, mechanical, and physical restraints or seclusion. ( )

1~~3~~2. **Self-Directed Community Supports (SDCS)**. A program option for adults eligible for the Adult ~~Developmental Disabilities (~~ DD~~)~~ Waiver described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

1~~4~~3. **Support and Spending Plan (SSP)**. A ~~support and spending plan is a~~ document that functions as a participant's plan of care when the participant is eligible for and has chosen a ~~consumer-directed service~~ CDCS option. This document identifies the goods, ~~or~~ services, and supports ~~or both,~~ selected by a participant, including those ~~goods, services, and supports~~ available outside of Medicaid-funded services that can help the participant meet desired goals, and the cost of each one ~~of the identified goods and services~~. The participant uses this document to manage their individualized budget. ~~(3-17-22)~~( )

1~~5~~4. **Supports**. Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a ~~community support worker~~ CSW, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. ~~A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support.~~ ~~(3-17-22)~~( )

1~~6~~5. **Support Broker (SB)**. An individual who advocates on behalf of the participant and who is hired by the participant to provide ~~support broker S~~ SB services. ~~(3-17-22)~~( )

~~**17. Support Broker Services**. Services provided by a support broker to assist the participant with planning, negotiating, and budgeting.~~ ~~(3-17-22)~~

1~~8~~6. **Traditional Adult DD Waiver Services**. A program option for participants eligible for the Adult ~~Developmental Disabilities (~~ DD~~)~~ Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

~~**19. Traditional Children's DD Waiver Services**. A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."~~ ~~(3-17-22)~~

~~20~~17. **Traditional Children's HCBS State Plan Option Services**. A program option for children eligible for the Children's ~~Home and Community-Based Services (~~ HCBS~~)~~ State Plan Option consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

~~**21. Waiver Services**. A collective term that refers to services provided under a Medicaid Waiver program.~~ ~~(3-17-22)~~

~~011. -- 019. (RESERVED)~~

~~020. RESPONSIBILITY FOR DECISION-MAKING.~~
~~Under this chapter of rules, decisions are to be made as follows:~~ ~~(3-17-22)~~

~~01. Children. The parent or legal guardian is responsible for decisions made on behalf of a child participant.~~ ~~(3-17-22)~~

~~02. Adults. The participant, or legal guardian if one exists, is responsible for decisions made on behalf of an adult participant.~~ ~~(3-17-22)~~

**0~~2~~11. -- ~~099~~100. (RESERVED)**

~~100. CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.~~
~~The CDCS option requires the participant to have a support broker to assist the participant to make informed choices, participate in a person-centered planning process, and become skilled at managing their own supports. The participant must use a fiscal employer agent to provide Financial Management Services (FMS) for payroll and reporting functions.~~ ~~(3-17-22)~~

**101. PARTICIPANT ELIGIBILITY.**

**01. Eligibility Determination~~ of Medicaid and Home and Community Based Services -- DD Requirements~~.** In order to choose the CDCS option, the participant must first be determined Medicaid-eligible and determined to meet existing Adult DD waiver~~ programs~~ or Children's HCBS State Plan Option requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(3-17-22)~~( )

**02. Participant Agreement~~ Form~~.** The participant, if able, and their legal representative, if one exists, must agree in writing using a Department-approved form to the following: ~~(3-17-22)~~( )

**a.** Accept the guiding principles for the CDCS option, as defined in~~ Section 010 of~~ these rules; ~~(3-17-22)~~( )

**b.** Agree to meet the participant responsibilities outlined in~~ Section 120 of~~ these rules; ~~(3-17-22)~~( )

**c.** Take responsibility for and accept potential risks, and any resulting consequences, for their support choices. If the participant is unable to give consent, this falls to their legal representative; and ~~(3-17-22)~~( )

**d.** Acknowledge and follow the applicable HCBS rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits.~~,~~"~~ Sections 310 through 317.~~ ~~(3-17-22)~~( )

~~03. Legal Representative Agreement. The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the CDCS option.~~ ~~(3-17-22)~~

**03.** Participants involuntarily removed from the CDCS option will be ineligible for this option for a period of five years. Re-application will be reviewed on a case-by-case basis and will include consideration of the previous conditions for removal. ( )

**102. -- 109. (RESERVED)**

**110. PAID CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS).**
~~The p~~Participants must purchase~~ Financial Management Services (~~ FMS~~)~~ and~~ support broker~~ SB services to participate in the CDCS option~~, except for under the family-directed services option where the qualified parent or legal guardian may act as an unpaid support broker. The p~~ Participants must purchase goods and community supports through~~ the fiscal employer agent~~ an FEA who is providing the FMS. ~~(3-17-22)~~( )

**01.** ~~**Financial Management Services**~~**FMS**. The Department will enter into a provider agreement with ~~a~~ qualified ~~fiscal employer agent~~ FEAs, as defined in ~~Section 010 of~~ these rules, to provide ~~financial management services~~ FMS for payroll and reporting functions to ~~a~~ participants who chooses ~~the consumer directed~~ CDCS option. ~~(3-17-22)~~( )

**02.** ~~**Support Broker**~~**SB Services**. ~~Support broker s~~ Services ~~are~~ provided by a qualified ~~support broker~~ SB to assist in making informed choices, participate in a person-centered planning process, and become skilled at managaing their own supports such as negotiating and budgeting. SBs have to apply for requalification annually. ~~(3-17-22)~~( )

**03.** ~~**Community Support Worker**~~**CSW Services**. The ~~community support worker~~ CSWs provides ~~identified~~ supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified ~~community support worker~~ CSW must obtain the applicable license or certification. Identified supports include activities that address the participant's preference in both FDCS and SDCS, unless otherwsie specified, for: ~~(3-17-22)~~( )

**a.** Job support for SDCS to help the participant secure and maintain employment or attain job advancement; ~~(3-17-22)~~( )

**b.** Personal support to help the participant maintain health, safety, and basic quality of life; (3-17-22)

**c.** Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-17-22)

**d.** Emotional support to help the participant learn and practice behaviors consistent with their goals and wishes while minimizing interfering behaviors; (3-17-22)

**e.** Learning support for SDCS to help the participant learn new skills or improve existing skills that relate to their identified goals; ~~(3-17-22)~~( )

**f.** Transportation support to help the participant accomplish their identified goals; and ~~(3-17-22)~~( )

~~**g.** Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes their increased independence; and~~ ~~(3-17-22)~~

~~**h**~~**g.** Skilled nursing support for SDCS identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed registered nurse (RN) or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. ~~(3-17-22)~~( )

**04. Medically Necessary Equipment**. Adaptive and therapeutic equipment is medically necessary, meets a medical or accessibility need, and promotes increased independence. FDCS may substitute medical necessity for minimizing the participant's need for institutionalization. Items may be covered when: ( )

**a.** Not available through another source; ( )

**b.** Identified in the participant's plan; ( )

**c.** Safe and effective treatment that meets evidence – based treatment criteria; ( )

**d.** Optimal for the participant's health, safety and welfare; ( )

**e.** Least costly alternative that reasonably meets the identified need; ( )

**f.** For the sole benefit of the participant; and ( )

**g.** Meets at lease one (1) of the following: ( )

i. Assist the ability of the participant to remain in the community; ( )

ii. Enhance community inclusion and family involvement; and ( )

iii. Decrease dependency on formal support services. ( )

**05. Limitations**. Services have the following limitations: ( )

**a.** CDCS Purchased items and services must meet needs related to a developmental disability diagnosis. The use of CDCS and FDCS purchased items by an individual other than the participant is prohibited. The following types of items or services are not covered: ( )

i. For the convenience of a caregiver; ( )

ii. Educational; ( )

iii. Recreational; or ( )

iv. Vocational except pre-vocational and job supports. ( )

**b.** CDCS services may only be rendered by (1) staff to one (1) participant at a time. Staff may not: ( )

i. Render any other support, service, or supervision, paid or unpaid, to any other individual; or ( )

ii. Perform multiple services concurrently. ( )

**c.** CDCS and FDCS transportation support is limited to one thousand eight hundred (1,800) miles annually, unless otherwise authorized. ( )

**111. UNPAID COMMUNITY SUPPORTS AND SERVICES.**
The Department requires that participants and their ~~support broker~~ SB identify and prioritize the use of any goods, services and supports available outside of Medicaid-funded services~~through an unpaid volunteer support or service, or those goods, services, and supports~~ that can be provided by an unpaid natural support such as a family member, a friend, a neighbor or other volunteer. ~~(3-17-22)~~( )

**112. -- 119. (RESERVED)**

**120. PARTICIPANT RESPONSIBILITIES.**
With the assistance of the ~~support broker~~ SB, and the legal representative, if one exists, the participant is responsible for the following: ~~(3-17-22)~~( )

**01. Guiding Principles**. Accepting and honoring the guiding principles for the CDCS option ~~found in Section 010 of~~ defined in these rules. ~~(3-17-22)~~( )

**02. Person-Centered Planning**. Directing the person-centered planning process in order to identify and document paid and unpaid support and service needs, wants, and preferences. (3-17-22)

**03. Rates**. Negotiating payment rates for all paid community supports they want to purchase~~.~~. They must also ensur~~ing~~e rates negotiated for supports and services do not exceed the prevailing market rate, ~~and that~~ are cost-effective when comparing them to reasonable alternatives, and includ~~ing~~e the details in the employment agreements. ~~(3-17-22)~~( )

**04. Agreements**. Completing and implementing agreements for the ~~fiscal employer agent~~ FEA, the

~~support broker~~ SB and ~~community support worker~~ CSWs, and submitting the agreements to the ~~fiscal employer agent~~ FEA. These agreements must be submitted on Department-approved forms~~.~~ and must specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement; clearly identifies the qualifications needed to provide the support or services; includes a statement signed by the hired worker that they possess the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that; the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the HCBS rules in IDAPA 16.03.10. "Medicaid Enhanced Plan Benefits;" and no employer-related claims will be filed against the Department. ~~(3-17-22)~~( )

~~**05. Agreement Detail.** Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that they possess the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 311 through 317; and no employer-related claims will be filed against the Department.~~ ~~(3-17-22)~~

0~~6~~5. ~~**Plan**~~**SSP**. Developing a comprehensive ~~support and spending plan~~ SSP, based on the information gathered during ~~the~~ person-centered planning. ~~(3-17-22)~~( )

0~~7~~6. **Time Sheets and Invoices**. Reviewing and verifying that ~~supports~~ goods and services being billed were provided and indicating that they approve of the bill by signing the timesheet or invoice. ~~(3-17-22)~~( )

0~~8~~7. **Quality Assurance and Improvement**. Providing feedback to the best of their ability regarding their satisfaction with the ~~supports~~ goods and services they receive and the performance of their workers. ~~(3-17-22)~~( )

**08. Sufficient Staffing**. Hiring enough CSWs to ensure services are rendered in a manner for the health and safety of the participant. ( )

**09. Required Classes**. The participant must attend classes on Guide Training by the Department and FEA Training. ( )

~~**121. -- 129. (RESERVED)**~~

~~**130. FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.**~~

~~**01. Requirements**. The fiscal employer agent must meet the requirements outlined in its provider agreement with the Department, and Section 3504 of the Internal Revenue Code (26 USC 3504).~~ ~~(3-17-22)~~

~~**02. Limitations**. The fiscal employer agent must not:~~ ~~(3-17-22)~~

~~**a.** Provide any other direct services to the participant, to ensure there is no conflict of interest; or~~ ~~(3-17-22)~~

~~**b.** Employ the guardian, parent, spouse, payee or conservator of the participant or have direct control over the participant's choice.~~ ~~(3-17-22)~~

~~**131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.**~~
~~The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services include:~~ ~~(3-17-22)~~

~~**01. Payroll and Accounting**. Providing payroll and accounting supports to participants that have chosen the Consumer Directed Community Supports option; (3-17-22)~~

~~**02. Financial Reporting**. Performing financial reporting for employees of each participant. (3-17-22)~~

~~**03. Information Packet**. Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring their own staff. (3-17-22)~~

~~**04. Time Sheets and Invoices**. Processing and paying time sheets for community support workers and support brokers, as authorized by the participant, according to the participant's Department-authorized support and spending plan. (3-17-22)~~

~~**05. Taxes**. Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-17-22)~~

~~**06. Payments for Goods and Services**. Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-17-22)~~

~~**07. Spending Information**. Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-17-22)~~

~~**08. Quality Assurance and Improvement**. Participating in Department quality assurance activities. (3-17-22)~~

**1~~32~~21. -- 134. (RESERVED)**

**135. SUPPORT BROKER (SB) REQUIREMENTS AND LIMITATIONS.**

**01. ~~Initial Application to Become a Support Broker~~SB Requirements**. Individuals interested in becoming ~~a~~ an SB ~~support broker~~ must ~~complete the Department-approved application to document that they~~: ~~(3-17-22)~~( )

**a.** ~~Are~~Be eighteen (18) years of age or older; ~~(7-1-24)~~( )

**b.** Have skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (7-1-24)

**c.** Have at least two (2) years verifiable experience with the target population and ( )

**d.** ~~k~~Knowledge of services and resources in the developmental disabilities field. ~~(7-1-24)~~( )

**02. Application Exam**. Applicants that meet the minimum requirements under this rule will receive training materials and resources to prepare for the application exam. Under ~~Family-Directed Community Supports (~~ FDCS~~)~~, children's ~~support broker~~ SBs must attend ~~the~~ an initial training. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements under these rules, will be eligible to enter into a ~~provider~~ Medicaid Support Broker ~~a~~ Agreement with the Department. ~~(7-1-24)~~( )

**03. Required Ongoing Training**. All ~~support broker~~ SBs must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of ~~support broker~~ SB services. Up to six (6) hours ~~of the required twelve (12) hours~~ may be obtained through independent self-study. The remaining hours must consist of classroom training. ~~(3-17-22)~~( )

**04. Termination**. The Department may terminate the ~~provider~~ Medicaid Support Broker~~a~~ Agreement in accordance with Idaho Code 56-209h(6) or when the ~~support broker~~ SB: ~~(3-17-22)~~( )

**a.** Is no longer able to pass a background check under ~~Section 009 of~~ these rules. ~~(7-1-24)~~( )

**b.** Puts the health or safety of the participant at risk by failing to perform job duties under the employment agreement. (7-1-24)

**c.** Does not receive and document the required ongoing training and requalification. ~~(3-17-22)~~( )

**05. Limitations**. The ~~support broker~~ SB must: ~~(7-1-24)~~( )

**a.** Not provide, or be employed by an agency that provides CSW services~~paid community supports under Section 150 of these rules~~ to the same participant; and ~~(7-1-24)~~( )

**b.** For ~~Self-Directed Community Supports (~~ SDCS~~)~~, meet the conflict of interest standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~(7-1-24)~~( )

**c.** SBs are limited to reimbursement for three thousand one hundred twenty (3,120) hours per calendar year across all participants served unless otherwise authorized by the Department. ( )

**06. Time Sheets and Invoices**. SBs must submit accurate time sheets and invoices for reimbursement or be subject to recoupment. ( )

**136. SUPPORT BROKER (SB) DUTIES AND RESPONSIBILITIES.**

**01. ~~Support Broker~~ Initial Documentation**. Prior to beginning employment for the participant, the ~~support broker~~ SB must type and complete and submit to the participant, the packet of information provided by the ~~fiscal employer agent~~ FEA ~~and submit it to the fiscal employer agent~~. This packet must include documentation of: ~~(3-17-22)~~( )

**a.** ~~Support broker~~SB application approval by the Department; ~~(3-17-22)~~( )

**b.** A completed ~~criminal history~~ background check, including clearance in accordance with ~~Section 009~~ of these rules and IDAPA 16.05.06, "Criminal History and Background Checks"; and ~~(3-17-22)~~( )

**c.** A completed employment agreement in accordance with these rules.~~with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services.~~ The negotiated rate must not exceed the maximum hourly rate for ~~support broker~~ SB services established by the Department. ~~(3-17-22)~~( )

**02. Documentation**. SB must complete all documentation required by the Department including documentation of the date and type of service provided and billed for. All documentation for services will be retained by the SB for five (5) years. ( )

**0~~2~~3. Required ~~Support Broker~~ Duties**. ~~Support broker~~SB services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the ~~support broker~~ SB must: ~~(3-17-22)~~( )

**a.** Assist in facilitating the person-centered planning process as directed by the participant and consistent with the HCBS rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits~~;~~;" ~~Sections 313, 316, and 317;~~ ~~(3-17-22)~~( )

**b.** Develop a written ~~support and spending plan~~ SSP with the participant that includes the paid and unpaid supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. ~~This plan~~ The SSP must be authorized by the Department; ~~(3-17-22)~~( )

**c.** Assist the participant to monitor and review their budget; (3-17-22)

**d.** Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-17-22)

**e.** ~~Participate with~~ Adhere to Department quality assurance measures~~, as requested~~; ~~(3-17-22)~~( )

**f.** Assist the participant to complete the annual re-determination process as needed, including updating the ~~support and spending plan~~ SSP and submitting it to the Department for authorization; ~~(3-17-22)~~( )

**g.** Assist the participant, as needed, to meet the participant responsibilities outlined in ~~Section 120 of~~ these rules and assist the participant, as needed, to protect their own health and safety; ~~(3-17-22)~~( )

**h.** Complete the Department-approved ~~criminal history~~ background check waiver form when a participant chooses to waive the ~~criminal history~~ background check requirement for a ~~community support worker~~ CSW. Completion of this form requires that the ~~support broker~~ SB provide education and counseling to the participant and their ~~circle of support~~ COS regarding the risks of waiving a ~~criminal history~~ background check and assist with detailing the rationale for waiving the ~~criminal history~~ background check and how health and safety will be protected; ~~and~~ ~~(3-17-22)~~( )

**i.** Assist children enrolled in the ~~Family Directed Community Supports (~~ FDCS~~) O~~ option as they transition to adult DD services. ~~(3-17-22)~~( )

**j.** Sign the written ~~support and spending plan~~ SSP as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits,"; and ~~Section 317.~~ ~~(3-17-22)~~( )

**k.** Report concerns or discrepancies in documentation and services provided to the Department immediately. ( )

**0~~3~~4. Additional ~~Support Broker~~ Duties**. In addition to the required ~~support broker~~ SB duties, each ~~support broker~~ SB must be able to provide the following services when requested by the participant: ~~(3-17-22)~~( )

**a.** Assist the participant to develop and maintain a ~~circle of support~~ COS; ~~(3-17-22)~~( )

**b.** Help the participant learn and implement the skills needed to recruit, hire, and monitor community supports; (3-17-22)

**c.** Assist the participant to negotiate rates for paid ~~community support workers~~ CSW; ~~(3-17-22)~~( )

**d.** Maintain documentation of supports provided by each ~~community support worker~~ CSW and participant's satisfaction with these supports; ~~(3-17-22)~~( )

**e.** Assist the participant to monitor community supports; (3-17-22)

**f.** Assist the participant to resolve employment-related problems; (3-17-22)

**g.** Assist the participant to identify and develop community resources to meet specific needs; and (3-17-22)

**h.** Assist the participant in distributing the ~~support and spending plan~~ SSP to ~~community support workers~~ CSWs or vendors as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits~~,~~." ~~Section 317.~~ ~~(3-17-22)~~( )

**0~~4~~5. Termination of ~~Support Broker~~ Services**. If ~~a support broker~~ an SB decides to end services with a participant, they must give the participant and the Department at least thirty (30) days' written notice prior to terminating services. The ~~support broker~~ SB must assist the participant to identify a new ~~support broker~~ SB and

provide the participant and new ~~support broker~~ SB with a written service transition plan by the date of termination. The transition plan must include an updated ~~support and spending plan~~ SSP that reflects current supports being received, details about the existing ~~community support workers~~ CSWs, and unmet needs. ~~(3-17-22)~~( )

**137. -- 139. (RESERVED)**

**140. COMMUNITY SUPPORT WORKER (CSW) LIMITATIONS.**
A paid ~~community support worker~~ CSW must not be the spouse of the participant., ~~and, f~~ For FDCS, they must: 1) not be the parent or legal guardian of the participant, ~~and must~~ 2) not have direct control over the participant's choices, ~~must~~ 3) avoid any conflict of interest, and ~~must~~ 4) not receive undue financial benefit from the participant's choices. ~~(3-17-22)~~( )

**01. Work Limit**. A CSW for SDCS cannot work more than twelve (12) hours in a day without authorization from the Department. ( )

**0~~1~~2. ~~Self-Directed Community Supports (~~SDCS~~)~~**. SDCS CSW cannot be younger than seventeen (17) years of age except when providing chore services and then may be sixteen (16) years of age. ~~A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following:~~ ~~(3-17-22)~~( )

~~**a.** The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules.~~ ~~(3-17-22)~~

~~**b.** The legal guardian must not be paid to fulfill any obligations they are legally responsible to fulfill as outlined in the guardianship or conservator order from the court.~~ ~~(3-17-22)~~

**0~~2~~3. ~~Family-Directed Community Supports (~~FDCS~~)~~**. ~~A parent or legal guardian cannot be a paid community support worker.~~ A paid ~~community support worker~~ CSW may provide unskilled supervision, but cannot: ~~(3-17-22)~~( )

**a.** ~~Must not s~~Supplant the role of the parent or legal guardian; ~~(3-17-22)~~( )

**b.** ~~Cannot b~~Be paid to fulfill any obligations that the parent or legal guardian is legally responsible to fulfill for their child.: ~~(3-17-22)~~( )

**c.** Be under the age of sixteen (16) years old; or ( )

**d.** Transport or be left alone with a participant under the age of eighteen (18) years old. ( )

**141. -- 149. (RESERVED)**

**150. PAID COMMUNITY SUPPORT WORKER (CSW) DUTIES AND RESPONSIBILITIES.**

**01. Initial Documentation**. Prior to providing goods or services to the participant, the ~~community support worker~~ CSW must type and complete the packet of information provided by the ~~fiscal employer agent and submit it to the fiscal employer agent~~ FEA and submit to the FEA. When the ~~community support worker~~ CSW will be providing services, this packet must include documentation of: ~~(3-17-22)~~( )

**a.** A completed ~~criminal history~~ background check, including clearance in accordance with ~~Section 009 of~~ these rules and IDAPA 16.05.06, "Criminal History and Background Checks," or documentation that this requirement has been waived by the participant in accordance with these rules. ~~This documentation must be provided on a Department-approved form and include the rationale for waiving the criminal history check and describe how health and safety will be ensured in lieu of a completed criminal history check.~~ Individuals listed on a state or federal provider exclusion list must not provide paid supports; ~~(3-17-22)~~( )

**b.** A completed employment agreement with the participant in accordance with these rules~~that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the~~

~~support to be provided~~. If the ~~community support worker~~ CSW is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; ~~(3-17-22)~~( )

**c.** Current state licensure or certification if identified support requires certification or licensure; and (3-17-22)

**d.** A statement of qualifications to provide supports identified in the employment agreement. (3-17-22)

**02. Employment Agreement**. The ~~community support worker~~ CSW must deliver supports as defined in the employment agreement. ~~(3-17-22)~~( )

**03. Documentation ~~of Supports~~**. The ~~community support worker~~ CSW must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the participant's ~~fiscal employer agent~~ FEA or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's ~~fiscal employer agent~~ FEA. Failure to do so may result in recoupment. ~~(3-17-22)~~( )

**04. Time Sheets and Invoices**. The ~~community support worker~~ CSW must obtain the signature of the participant or their legal representative on each completed timesheet or invoice prior to submitting the document to the ~~fiscal employer agent~~ FEA for payment. Time sheets or invoices that are not signed by the ~~community support worker~~ CSW and the participant or their legal representative will not be paid. ~~(3-17-22)~~( )

**151. -- 159. (RESERVED)**

**160. SUPPORT AND SPENDING PLAN (SSP) DEVELOPMENT.**

**01. ~~Support and Spending Plan~~ Requirements**. The participant, with the help of their ~~support broker~~ SB, must develop a comprehensive ~~support and spending plan~~ SSP based on the information gathered during ~~the~~ person-centered planning. The person-centered planning process must meet all HCBS requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." The ~~support and spending plan~~ SSP is not valid until authorized by the Department. ~~and~~ The SSP must include ~~the following~~: ~~(3-17-22)~~( )

**a.** The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in their community. (3-17-22)

**b.** Paid or non-paid ~~consumer-directed community~~ supports that focus on the participant's wants, needs, and goals in the following areas: ~~(3-17-22)~~( )

i. Personal health and safety including quality of life preferences; (3-17-22)

ii. Securing and maintaining employment for SDCS; ~~(3-17-22)~~( )

iii. Establishing and maintaining relationships with family, friends and others to build the participant's ~~circle of supports~~ COS; ~~(3-17-22)~~( )

iv. Learning and practicing ways to recognize and minimize interfering behaviors for SDCS; and ~~(3-17-22)~~( )

v. Learning new ~~skills~~ or improving existing ~~ones~~ skills to accomplish set goals for SDCS. ~~(3-17-22)~~( )

**c.** Support needs such as: (3-17-22)

i. Medical care and medicine for SDCS; ~~(3-17-22)~~( )

ii. Skilled care including therapies or nursing needs for SDCS; ~~(3-17-22)~~( )

iii. Community involvement; (3-17-22)

iv. Preferred living arrangements including possible roommate(s); and (3-17-22)

v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-17-22)

**d.** Risks or safety concerns in relation to the identified support needs on the participant's ~~plan~~ SSP. The plan must be active and specify the goods, supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; ~~(3-17-22)~~( )

**e.** Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; (3-17-22)

**f.** The budgeted amounts planned in relation to the participant's needed supports. ~~Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily.~~ The ~~fiscal employer agent~~ FEA will compare and match the employment agreements to the appropriate support categories identified on the initial ~~spending plan~~ SSP prior to processing time sheets or invoices for payment; and ~~(3-17-22)~~( )

~~**g.** Additional HCBS person-centered plan requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 313, 316, and 317. (3-17-22)~~

**02. ~~Support and Spending Plan~~ Limitations**. ~~Support and spending plan limitations include:~~ ~~(3-17-22)~~( )

**a.** Traditional ~~Medicaid~~ Adult DD waiver services, ~~and traditional~~ rehabilitative, or habilitative services must not be purchased under the CDCS option. Because a participant cannot receive these traditional services and ~~consumer directed services~~ CDCS at the same time, the participant, the ~~support broker~~ SB, and the Department must all work together to ensure that there is no interruption of required services when moving between traditional services and the CDCS option; ~~(3-17-22)~~( )

**b.** Paid community supports must not be provided in a group setting with recipients of traditional ~~Medicaid~~ Adult DD waiver services, rehabilitative, or habilitative services. This ~~limitation~~ does not ~~preclude~~ prevent a participant who has selected the ~~consumer directed~~ CDCS option from choosing to live with recipients of traditional ~~Medicaid~~ Adult DD waiver, rehabilitative, or habilitative services; ~~(3-17-22)~~( )

**c.** All paid community supports must fit into ~~one (1) or more~~ a type~~s~~ of community support~~s~~ described in ~~Section 110 of~~ these rules. The ~~support and spending plan~~ SSP must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; ~~(3-17-22)~~( )

**d.** ~~Support and spending plans~~SSPs that exceed the approved budget amount will not be authorized; and ~~(3-17-22)~~( )

**e.** Time sheets or invoices ~~that are submitted to the fiscal employer agent for payment that~~ exceeding the authorized ~~support and spending plan~~ SSP amount will not be paid by the ~~fiscal employer agent~~ FEA. ~~(3-17-22)~~( )

~~**161. -- 169. (RESERVED)**~~

~~**170. PERSON-CENTERED PLANNING.**~~

~~**01. Direction of the Person-Centered Planning Process**. The participant agrees to direct the person-~~

~~centered planning process in order to identify and document their support and service needs, wants, and preferences.~~ ~~(3-17-22)~~

~~**02. Participant Choice**. The participant decides who they want to participate in the planning sessions in order to ensure the participant's choices are honored and promoted.~~ ~~(3-17-22)~~

~~**03. Facilitation of Person-Centered Planning Meetings**. The participant may facilitate their person-centered planning meetings, or these meetings may be facilitated by the chosen support broker.~~ ~~(3-17-22)~~

~~**04. Focus of Person-Centered Planning**. The person-centered planning should focus on identifying strengths, capacities, preferences, needs, and desired goals of the participant for all life areas.~~ ~~(3-17-22)~~

~~**05. Timeframes of Person-Centered Planning**. The person-centered planning should be completed as timely as possible in order to provide the necessary information required to develop the participant's support and spending plan. Time limitations are not currently mandated in order to allow for extensive, comprehensive planning and thoughtful support and spending plan development.~~ ~~(3-17-22)~~

~~**06. HCBS Person-Centered Planning Requirements**. The person-centered planning process must meet all HCBS requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 316.~~ ~~(3-17-22)~~

**1~~7~~6**1. -- 179. **(RESERVED)**

**180. CIRCLE OF SUPPORTS.**

~~The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports performs on behalf of the participant are not paid.~~ ~~(3-17-22)~~

**01. Focus~~ of the Circle of Support~~**. The participant's~~ circle of support~~ COS~~ should be~~ is built and operates with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop~~ a plan of action~~ an SSP, along with and on behalf of the participant, to help the participant accomplish their personal goals. ~~(3-17-22)~~( )

**02. Members~~ of the Circle of Support~~**. A~~ circle of support~~ COS is unpaid, selected by the participant, and may include family members, friends, neighbors, co-workers, and other community members. For the SDCS, when the participant's legal guardian is selected as a~~ community support worker~~ CSW, the~~ circle of support~~ COS must include at least one (1) non-family member~~ that~~ who is not the~~ support broker~~ SB. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or~~ to the~~ legal guardian. ~~(3-17-22)~~( )

**03. Selection and Duties~~ of the Circle of Support~~**. Members~~ of the circle of support~~ are selected by the participant and commit to work within the group to: ~~(3-17-22)~~( )

**a.** ~~Help p~~Promote and improve the life of the participant in accordance with the participant's choices and preferences; and ~~(3-17-22)~~( )

**b.** Meet~~ on a regular basis~~ regularly to assist the participant to accomplish their expressed goals. ~~(3-17-22)~~( )

**04. Natural Supports**. ~~A n~~Natural supports may perform any duty of the~~ support broker~~ SB as long as the~~ support broker~~ SB still completes the required responsibilities listed in~~ Subsection 136.02 of~~ these rules. Additionally, any~~ community support worker~~ CSW task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's~~ support plan~~ SSP, but time worked does not need to be recorded or reported to the~~ fiscal employer agent~~ FEA. ~~(3-17-22)~~( )

**181. -- 189. (RESERVED)**

**190. INDIVIDUALIZED BUDGET.**

The Department will assign budgets based on the criteria under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-24)

~~**01. Budget Amount Notification**. The Department notifies each participant of their set budget amount as part of the eligibility determination or annual redetermination process. The notification will include how the participant may appeal the set budget amount.~~ ~~(3-17-22)~~

~~**02. Annual Re-Evaluation of Adult Individualized Budgets**. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's condition that results in a need for services that meet medical necessity criteria, and that is not reflected on the current inventory of individual needs.~~ ~~(3-17-22)~~

~~**03. Annual Re-Evaluation of Children's Individualized Budgets**. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 527.~~ ~~(7-1-24)~~

**191. -- 199. (RESERVED)**

**200. QUALITY ASSURANCE.**
The Department will implement quality assurance processes to ensure: access to ~~consumer-directed services~~ CDCS, participant direction of ~~plans~~ SSPs and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. ~~(3-17-22)~~( )

**01. ~~Participant Experience Survey (PES)~~Adult Services Outcome Review (ASOR)**. Each participant will have the opportunity to provide feedback to the Department about their satisfaction with consumer-directed services utilizing the ~~PES~~ ASOR. ~~(3-17-22)~~( )

**02. ~~Participant Experience~~Adult Service Outcomes**. Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: ~~(3-17-22)~~( )

**a.** Access to care; (3-17-22)

**b.** Choice and control; (3-17-22)

**c.** Respect and dignity; (3-17-22)

**d.** Community integration; and (3-17-22)

**e.** Inclusion. (3-17-22)

~~**03. Fiscal Employer Agent Quality Assurance Activities**. The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data.~~ ~~(3-17-22)~~

**043. ~~Community Support Workers and Support Brokers~~CSWs and SBs Quality Assurance Activities**. ~~Community support workers~~ CSWs and ~~support brokers~~ SBs must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. ~~(3-17-22)~~( )

**054. Participant Choice of Paid ~~Community Support Worker~~ CSW**. Paid ~~community support workers~~ CSWs must be selected by the participant, or their chosen representative, and meet the qualifications identified in ~~Section 150 of~~ this rule. ~~(3-17-22)~~( )

**065. Complaint Reporting and Tracking Process**. The Department will maintain a complaint

reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (3-17-22)

0~~7~~6. **Quality Oversight Committee**. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-17-22)

0~~8~~7. **Quarterly Quality Assurance Reviews**. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved ~~support and spending plan~~ SSP.
~~(3-17-22)~~( )

0~~9~~8. **H~~ome and~~ C~~ommunity~~ B~~ased~~ S~~ervice~~ Specific Reviews**. The Department will implement quality assurance and improvement activities to ensure compliance with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits~~.~~." ~~Sections 310 through 317.~~ ~~(3-17-22)~~( )

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

**210. CONTINUATION OF THE CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.**
The following requirements must be met or the Department may require the participant to discontinue the CDCS option: (3-17-22)

**01. Required Supports**. The participant is willing to work with ~~a support broker~~ an SB. ~~and a fiscal employer agent~~. ~~(3-17-22)~~( )

**a.** The participant can only change FEA services by providing a written request to their current FEA provider at least sixty (60) days in advance, and this change must occur at the end of a fiscal quarter. The request must include the name of the new FEA chosen by the participant and provide the specific date the change will occur. (3-17-22)

**b.** When a participant provides a written request to their current FEA provider to change to a different FEA provider, the current FEA provider must notify the participant of the specific date that the last payroll run will occur at the end of the fiscal quarter. (3-17-22)

**02. ~~Support and Spending Plan~~SSP**. The participant's ~~support and spending plan~~ SSP is ~~being~~ followed. ~~(3-17-22)~~( )

**03. Risk and Safety Back-Up Plans**. Back-up plans to manage risks and safety are ~~being~~ followed. ~~(3-17-22)~~( )

**04. Health and Safety Choices**. The participant's choices do not directly endanger their health, welfare and safety or endanger or harm others. (3-17-22)

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

## FISCAL EMPLOYER AGENT~~S DUTIES AND RESPONSIBILITIES~~
## (Sections 300-314)

**300. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): DEFINITIONS.**
For purposes of Sections 300 through 3146, the following definitions apply: ~~(3-17-22)~~( )

**01. Employee**. A ~~community support worker~~ CSW employed by a participant receiving services under the CDCS option. ~~(3-17-22)~~( )

**02. Employer**. A participant receiving services under the CDCS option. (3-17-22)

**03. Provider**. The term "provider" specifically refers to the ~~fiscal employer agent~~ FEA providing ~~financial management services~~ FMS to individuals participating in ~~consumer direction~~ the CDCS option. ~~(3-17-22)~~( )

**04. Secure File Transfer Protocol (SFTP)**. ~~Secure File Transfer Protocol.~~ A secure means of transferring data that allows certain Department staff to access information regarding ~~consumer direction~~ CDCS participants. ~~(3-17-22)~~( )

**05. Vendor**. ~~Provides goods and services rendered by a~~ Agencies and independent contractors that provide goods and services in accordance with a participant's ~~support and spending plan~~ SSP. ~~(3-17-22)~~( )

**06. Medicaid Billing Report**. A report generated every payroll period by the provider; it provides a list and count of unduplicated participants and payroll expenditures by service code, based on the date of service time frame specified by the user. (3-17-22)

## 301. FISCAL EMPLOYER AGENT: REQUIREMENTS AND LIMITATIONS.

**01. Limitations**. The FEA must not: ( )

**a.** Provide any other direct services to the participant, to ensure there is no conflict of interest; or ( )

**b.** Employ the guardian, parent spouse, payee or conservator of the participant or have direct control over the participant's choice. ( )

## 302. FISCAL EMPLOYER AGENT: DUTIES AND RESPONSIBILITIES.

The FEA performs FMS for each participant. Prior to providing FMS the participant and the FEA must enter into a written agreement. FMS include: ( )

**01. Payroll and Accounting**. Providing supports to participants that have chosen the CDCS option including: ( )

**a.** An online electronic time sheet entry for participants; ( )

**b.** Processing time sheets for CSWs and SBs, as authorized by the participant, according to the participant's Department-authorized SSP; and ( )

**c.** Issuing payroll checks after receipt of completed, approved time sheets. ( )

**02. Recoupment**. Recoup payments made in error when identified by the FEA or the Department by either deducting from future payments or requiring repayment. ( )

**03. Financial Reporting**. Performing financial reporting for employees of each participant. ( )

**04. Information Packet**. Preparing and distributing a packet of information, including Department-approved forms for agreement, for the participant hiring their own staff. ( )

**05. Labor Laws**. Ensure each participant's compliance with all applicable labor laws. ( )

**06. Taxes**. Ensure each participant's compliance with regulations for both federal and state taxes, including preparation and submission of all federal and state forms for each participant and their employees. Manage and process payment of required state and federal employment taxes for the participant's CSWs and SB. ( )

**07. Payments of Goods and Services**. Process and pay invoices for goods and services, as authorized by the participant, according to the participant's SSP. ( )

**08. Spending Information**. Providing each participant with reporting information that will assist the participant with managing the individualized budget. ( )

**09. Quality Assurance and Improvement**. Participating in Department quality assurance activities. ( )

**3013. FISCAL EMPLOYER AGENT (FEA) ~~DUTIES AND RESPONSIBILITIES~~: CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS).**

**01. Federal Tax ID Requirement**. The ~~fiscal employer agent~~ FEA must obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants ~~under Section 3504 of the Internal Revenue Code (26 USC 3504)~~. In addition, the provider must: ~~(3-17-22)~~( )

**a.** Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for FEIN in the participant's file. (3-17-22)

**b.** Retire participant's FEIN when the participant is no longer an employer under ~~consumer-directed community supports (~~ CDCS~~)~~. ~~(3-17-22)~~( )

**02. Requirement to Report Irregular Activities or Practices**. The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations; (3-17-22)

~~**03. Procedures Restricting FMS to Adult and Children's DD Waiver and Children's HCBS State Plan Option Participants**. The provider must not act as a fiscal employer agent and provide fiscal management services to a DD waiver or Children's HCBS State Plan Option participant for whom it also provides any other services funded by the Department.~~ ~~(3-17-22)~~

**043. Policies and Procedures**. The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. (3-17-22)

**054. Key Contact Person**. The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and ~~ensure these individuals~~ respond to the Department within one (1) business day. ~~(3-17-22)~~( )

**065. Face-to-Face Transitional Participant Enrollment**. The provider must conduct face-to-face transitional participant enrollment sessions in group settings or with individual participants in their homes or other designated locations. The provider must work with the regional Department staff to coordinate and conduct enrollment sessions. The face-to-face encounter may occur via ~~synchronous interaction telehealth~~ virtual care, as defined in Title 54, Chapter 57, Idaho Code. ~~(3-17-22)~~( )

**076. SFTP Site**. The provider must provide an SFTP site for the Department to access. ~~The site must have~~ with the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. ~~(3-17-22)~~( )

**087. Required IRS Forms**. The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: (3-17-22)

**a.** IRS Form 2678; (3-17-22)

**b.** IRS Approval Letter; (3-17-22)

**c.** IRS Form 2678 revocation process; (3-17-22)

**d.** Initial IRS Form 2848; and (3-17-22)

**e.** Renewal IRS Form 2848. (3-17-22)

**098. Requirement to Obtain and Revoke Power of Attorney**. The provider must obtain an Idaho State Tax Commission Power of Attorney (~~Form TC00110~~ID-POA) from each participant it represents ~~and~~, revoke the Form ID-POA when the provider no longer represents the participant, and maintain the relevant documentation in each participant's file. (3-17-22)

~~**10. Requirement to Revoke Power of Attorney**. The provider must revoke the Idaho State Tax Commission Power of Attorney (Form TC00110) when the provider no longer represents the participant and maintain the relevant documentation in the participant's file.~~ ~~(3-17-22)~~

~~**11. Home and Community Based Person-Centered Service Plan Requirements**. The provider must sign the written support and spending plan as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 317.~~ ~~(3-17-22)~~

**3024. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): CUSTOMER SERVICE.**

**01. Customer Service System**. The provider must provide a customer service system to respond to all inquiries from participants, employees, agencies, and vendors. The provider must: (3-17-22)

**a.** Provide staff with customer service training with an emphasis on consumer-direction. (3-17-22)

**b.** Ensure staff are trained and have the skills to assist participants with enrollment and to help them understand their account statements. (3-17-22)

**c.** Ensure that ~~fiscal employer agent~~ FEA personnel are available during regular business hours. ~~(7-1-24)~~( )

**d.** Provide translation and interpreter services. ~~(i.e., American Sign Language and services for persons with limited English proficiency).~~ ~~(3-17-22)~~( )

**e.** Provide prompt and consistent response to verbal and written communication. Specifically: (3-17-22)

i. All calls and voice mails must be responded to within one (1) business day; and (7-1-24)

ii. All written and electronic correspondence must be responded to within five (5) business days. (3-17-22)

**f.** Maintain a toll-free phone line where callers speak to a live person during business hours and are provided the option to leave voice mail at any time~~, all day, every day~~. ~~(3-17-22)~~( )

**g.** Maintain a toll-free fax line that is available ~~all day, every day~~ at any time, exclusively for participants and their employees. ~~(3-17-22)~~( )

**h.** Maintain an e-mail address. ( )

**02. Complaint Resolution and Tracking System**. The provider is responsible for receiving, responding to, and tracking all complaints from any source under this agreement and corrective actions. A complaint is defined as a verbal or written expression of dissatisfaction about ~~fiscal employer agent~~ FEA services. The provider must: ~~(3-17-22)~~( )

**a.** Respond to all written and electronic correspondence within five business (5) days. (7-1-24)

**b.** Respond to all calls and voicemails within one (1) business day. (7-1-24)

**c.** Maintain an electronic tracking system and log of complaints and resolutions~~. The electronic log of complaints and resolutions must be~~ accessible for Department review through the SFTP site. ~~(3-17-22)~~( )

**d.** Log and track complaints received from the Department pertaining to ~~fiscal employer agent~~ FEA services. ~~(3-17-22)~~( )

**e.** Compile a quarterly summary report ~~and~~ analy~~ze~~ing complaints ~~received on a quarterly basis~~ to determine the quality of services to participants and to identify any corrective action necessary. ~~(3-17-22)~~( )

**f.** Implement corrective action within one (1) business day of the complaint response.

**~~f~~g.** Post the complaint to the SFTP site within ~~twenty-four (24) hours any day a complaint is received Monday through Friday. Saturday and Sunday complaints must be posted to the SFTP site by close of business the following Monday~~ one (1) business day. Failure to comply will result in a fifty dollar ($50) penalty payable to Medicaid within ninety (90) days of incident. ~~(3-17-22)~~( )

**30~~3~~5. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PERSONAL AND CONFIDENTIAL INFORMATION.**
The provider must implement and enforce policies and procedures regarding documents that are mailed, faxed, or e-mailed to and from the provider to ensure documents are tracked and that confidential information is not compromised, is stored appropriately and not lost, and is traceable for historical research purposes. ~~(3-17-22)~~( )

**30~~4~~6. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): ENROLLMENT PROCESS.**

**01. Submission of Participant Enrollment and Employee Packets for Department Approval**. The provider must submit the following for participant enrollment and employee packets to the Department for approval. (3-17-22)

**a.** The participant enrollment packet must include: (3-17-22)

i. ~~Fiscal employer agent~~FEA authorization form; ~~(3-17-22)~~( )

ii. Employer Appointment of Agent - IRS Form; (3-17-22)

iii. Tax Information Form; and (3-17-22)

iv. Employer information~~. The employer information must include:~~ including; ~~(3-17-22)~~( )

(1) Instructions for completing forms; (3-17-22)

(2) Payroll schedule, including deadlines for submission of time cards; (3-17-22)

(3) Sample employment agreements; (3-17-22)

(4) Sample Request for Vendor Payment form; (3-17-22)

(5) Sample independent provider agreement; and (3-17-22)

(6) Other sample employment agreements as needed. (3-17-22)

**b.** The employee enrollment packet must contain: (3-17-22)

i. Employee Information Form; (3-17-22)

ii. I-9 Employment Eligibility Form; (3-17-22)

iii. W-4 Employee Withholding Allowance Certificate; (3-17-22)

iv. Pay selection agreement; (3-17-22)

v. Direct deposit authorization (optional); and ~~(3-17-22)~~( )

vi. Sample time sheets and instructions for completion~~; and~~. ~~(3-17-22)~~( )

~~vii. IRS Form W-5.~~ ~~(3-17-22)~~

**02. Distribution of Participant Enrollment and Employee Packets to Participant after Department Approval**. The provider must distribute Department-approved participant enrollment packets and employment packets to the participant within two (2) business days after the participant requests the packets. (3-17-22)

**a.** To enroll a participant, the provider must: (3-17-22)

i. Enroll the participant within two (2) business days of receipt of completed paperwork; and (3-17-22)

ii. Log and maintain an electronic record of all enrollment paperwork, which includes participant ~~support and spending plan~~ SSP cost and authorization sheets. ~~(3-17-22)~~( )

**b.** To enroll an employee, the provider must: (3-17-22)

i. Enroll the employee within two (2) business days of receipt of completed paperwork; and (3-17-22)

ii. Log and maintain an electronic record of all the employee's paperwork that includes the employment agreements. (3-17-22)

**30~~5~~7. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PAYMENT PROCESS.**

**01. Process Payroll**. The provider must process payroll, including time sheets and taxes, in accordance with the participant's ~~support and spending plan~~ SSP. The payroll process must include: ~~(3-17-22)~~( )

**a.** Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. (3-17-22)

**b.** Payment of invoices to vendors. (3-17-22)

**c.** Management of participant budget funds as per authorized ~~support and spending plan~~ SSP. ~~(3-17-22)~~( )

**d.** Garnishment of wages as per court orders. (3-17-22)

**e.** Preparation of year-end federal and state tax forms. (3-17-22)

**f.** Payment of worker's compensation insurance premiums. (3-17-22)

**02. Requirement to Track and Log Time Sheet Billing Errors**. The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. (3-17-22)

**03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks**. The provider must track and log occurrences of improperly cashed or improperly issued checks and stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within fourteen (14) calendar days of when the error occurred. (3-17-22)

**04. Process Employee Payments**. The provider must verify ~~employees'~~ documentation and process ~~employees'~~ payments via ~~check, direct deposit, or pay cards as per~~ the preference of employees. The employee payment process includes: ~~(3-17-22)~~( )

**a.** Receipt of time cards from employees via mail, fax, or website by specified due dates. (3-17-22)

**b.** Review time cards for accuracy and verify that timecards contain the following information: (3-17-22)

i. Employer name and ID number. (3-17-22)

ii. Employee name and ID number. (3-17-22)

iii. Hours of work. (3-17-22)

iv. Code for service. (3-17-22)

**c.** Match codes to employment agreement to verify rate of pay. (3-17-22)

**d.** Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay. (3-17-22)

**e.** Calculate all taxes and other withholding. (3-17-22)

**f.** Pay employees every two (2) weeks or semi-monthly. (3-17-22)

**g.** Contact participant and representative ~~if there are~~ to resolve problems with timecards or other documents ~~in order to resolve issues~~ prior to pay-date, if possible. ~~(3-17-22)~~( )

**h.** Maintain an electronic complaint log of payroll issues and resolutions. (3-17-22)

**i.** ~~The provider must verify there is~~Verification of any money remaining in each participant's budget and specific service category prior to issuing ~~a check~~ payment. ~~(3-17-22)~~( )

**05. Process Vendor Payments**. When participants submit requests for payment to vendors, the provider must: (3-17-22)

**a.** Review, and maintain on file, the vendor payment request with attached voided vendor receipt submitted by the participant. (3-17-22)

**b.** Ensure item or payment is authorized on the participant's ~~support and spending plan~~ SSP. ~~(3-17-22)~~( )

**c.** Issue ~~a check made out~~ payment to the vendor ~~and mail to participant for distribution. Vendor payments are made~~ on the same schedule as payroll. ~~(3-17-22)~~( )

**06. Process Independent Contractor or Outside Agency Payments**. When the participant hires an independent contractor or outside agency, in accordance with the ~~support and spending plan~~ SSP, the provider must: ~~(3-17-22)~~( )

**a.** Obtain a W-9 from the contractor or agency. (3-17-22)

**b.** Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. (3-17-22)

**c.** Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. (3-17-22)

**d.** Ensure service or payment is authorized on the ~~support and spending plan~~ SSP. ~~(3-17-22)~~( )

**e.** Issue payment directly to the independent contractor or agency. (3-17-22)

**07. End-of-Year Processing**. For purposes of end-of-year processing, the provider must maintain relevant documentation and must: (3-17-22)

**a.** Refund over-collected Federal Insurance Contributions Act tax (FICA) to applicable employees, or to state government; (3-17-22)

**b.** Prepare, file, and distribute IRS Form W-2 for each employee; (3-17-22)

**c.** Prepare and file IRS Form W-3 for each participant represented; (3-17-22)

**d.** Prepare and file State Form 9~~5~~67 for state income taxes withheld for each employer; ~~(3-17-22)~~( )

**e.** Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and (3-17-22)

**f.** Report and pay all state and federal unemployment insurance premiums. (3-17-22)

**08. Transition to New FEA**. The following items must be addressed if a participant transitions to a new FEA provider. For the purposes of a smooth transition between FEA providers, the two providers must work closely with one another to transfer the participant from the services one is no longer providing to the services the other is providing. The following items must be transferred: (3-17-22)

**a.** Participant's ~~Federal Employer Identification Number (~~FEIN~~)~~ and FEIN mailing address. ~~(3-17-22)~~( )

~~**b.** Mailing address for FEIN. (3-17-22)~~

**~~e~~b.** IRS Form 2678 Agent/Payer Authorization. (3-17-22)

**~~d~~c.** Depositing taxes and filing report. This includes Federal and State tax withholdings and Federal Unemployment Tax Act tax (FUTA). (3-17-22)

**~~e~~d.** Participant's FUTA Liability Status. (3-17-22)

**~~f~~e.** FICA and FUTA Exemption Status of Participant Employees. ~~(3-17-22)~~( )

~~**g.** FUTA Exemption Status of Participant Employees. (3-17-22)~~

**~~h~~f.** Unemployment Insurance (U/I). (3-17-22)

**~~i~~g.** Unemployment Insurance Experience Rate and Taxable Wage Base. (3-17-22)

~~**j.** Unemployment Insurance Taxable Wage Base. (3-17-22)~~

**~~k~~h.** State Unemployment Insurance Liability Status of the Participant and Exempt Employees. ~~(3-17-22)~~( )

~~l. State Unemployment Insurance Liability Status of Exempt Employees.~~ ~~(3-17-22)~~

~~m~~i. Unemployment Insurance Filing and Depositing. (3-17-22)

~~n~~j. State Income Tax - Account Number Agent Authorization, Filing and Depositing. ~~(3-17-22)~~( )

~~o. State Income Tax - Agent Authorization.~~ ~~(3-17-22)~~

~~p. State Income Tax - Filing and Depositing.~~ ~~(3-17-22)~~

~~q~~k. Budget Authorization - ~~a~~Authorized ~~s~~Services Spent and Remaining, Authorized Providers, and Authorized Provider Rates. ~~(3-17-22)~~( )

~~r. Budget Authorization - spent and remaining.~~ ~~(3-17-22)~~

~~s. Budget Authorization - authorized providers.~~ ~~(3-17-22)~~

~~t. Budget Authorization - authorized provider rates.~~ ~~(3-17-22)~~

~~u~~l. Participant's Representative, and Participant's Employee and Provider Demographic ~~i~~Information. ~~(3-17-22)~~( )

~~v. Participant's Representative demographic information.~~ ~~(3-17-22)~~

~~w. Participant's Employee and provider demographic information.~~ ~~(3-17-22)~~

~~x~~m. Participant's Employee New Hire Reporting, Liens and Garnishments, and ~~t~~Tax and ~~o~~Other ~~i~~Information. ~~(3-17-22)~~( )

~~y~~n. Participant's Independent contract and other information. (3-17-22)

~~z. Participant's Employee New Hire Reporting.~~ ~~(3-17-22)~~

~~aa. Participant's Employee Liens and Garnishments.~~ ~~(3-17-22)~~

**3068. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): ANNUAL PARTICIPANT SURVEY.**

**01. Requirement to Conduct Annual Participant Satisfaction Survey**. Starting October 1 of each calendar year, each provider who has been providing services for at least six (6) months must conduct an annual participant satisfaction survey. (3-17-22)

**a.** Three (3) weeks prior to the survey launch, the provider must present the questions to the Department staff for approval. (3-17-22)

**b.** Once the questions are approved by the Department, the provider can send out the survey. (3-17-22)

**c.** The provider must survey its participants who receive services under ~~consumer directed services~~ the CDCS option, ~~such as participants with disabilities, family members of participants, and participants~~ including those whose primary language is other than English. ~~(3-17-22)~~( )

**d.** The provider must provide options for participants to respond to the surveys, other than by mail~~, for those participants who may not be able to respond by that method~~. ~~(3-17-22)~~( )

**02. Requirement to Provide Results of Annual Participant Satisfaction Survey**. The provider must

provide the results of the surveys to the Department in a comprehensive report, along with the completed surveys, by the 15th of December ~~of~~ each calendar year. ~~(3-17-22)~~( )

**30~~7~~9. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): QUALITY ASSURANCE.**

**01. Quality Assurance Activities**. The FEA must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of background check waivers, and timely reporting of accounting and satisfaction data. ( )

**0~~1~~2. ~~Required~~ Elements of Quality ~~In~~ Assurance Process**. The provider must provide a quality assurance process that includes: ~~(3-17-22)~~( )

**a.** Implementation of a quality management plan; (3-17-22)

**b.** Preparation of a quarterly, quality management analysis report; (3-17-22)

**c.** Distribution, collection, and analysis of an annual participant satisfaction survey; and (3-17-22)

**d.** A review of the monthly complaint summary and resolutions, monitoring of standards, and implementation of program improvements as needed. (3-17-22)

**0~~2~~3. ~~Requirement for~~ Formal Quality Assurance Review**. Every two (2) years, the provider must participate in a formal quality assurance review conducted in collaboration with the Department. ~~(3-17-22)~~( )

**3~~08~~10. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): DISASTER RECOVERY PLAN.**

**01. Disaster Recovery Plan**. The provider must develop and maintain a Disaster Recovery Plan for electronic and hard copy files that includes restoring software and data files, and hardware backup if management information systems are disabled or servers are inoperative. The results of the Disaster Recovery Plan must ensure the continuation of payroll and invoice payment systems. The provider must submit the Disaster Recovery Plan for Department approval during the readiness review. (3-17-22)

**02. Requirement to Report a Disaster**. The provider must report to the Department if management information systems are disabled or servers are inoperative within twenty-four (24) hours of the event. (3-17-22)

**3~~09~~11. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): TRANSITION PLAN.**

**01. Transition Plan Objectives**. The provider must provide a transition plan to the Department ~~within ninety (90) days after successful completion of~~ for the readiness review. The objectives of the transition plan are to minimize the disruption of services and provide an orderly and controlled transition of the provider's responsibilities to a successor at the conclusion of the agreement period or for any other reason the provider cannot complete responsibilities described in this chapter of rules. ~~(3-17-22)~~( )

**02. Transition Plan Requirements**. The transition plan must: (3-17-22)

**a.** Be updated at least ninety (90) days prior to termination of the provider agreement. (3-17-22)

**b.** Include tasks, and subtasks for transition, a schedule for transition, operational resource requirements, and training to be provided. (3-17-22)

**c.** Provide for transfer of data, documentation, files, and other records relevant to the agreement in an electronic format accepted by the Department. (3-17-22)

**d.** Provide for the transfer of any current, Idaho-specific policy and procedure manuals, brochures, pamphlets, and all other written materials developed in support of agreement activity to the Department. (3-17-22)

**3~~10~~12. FISCAL EMPLOYER AGENT~~ DUTIES AND RESPONSIBILITIES~~ (FEA): PERFORMANCE METRICS.**
~~The provider must do the following:~~ ~~(7-1-24)~~

**01. Readiness Review**. Complete a readiness review conducted by the Department with the provider prior to providing ~~fiscal employer agent~~ FEA services. ~~(7-1-24)~~( )

~~**a.** The provider must complete one hundred percent (100%) of the readiness review. (7-1-24)~~

~~**b**~~**a.** The Department will access SFTP site for review of provider documents and conduct an onsite review. (7-1-24)

~~**02. Compliance with Tax Regulations and Labor Laws**. Ensure each participant's compliance with regulations for both federal and state taxes, and all applicable labor laws. (7-1-24)~~

**0~~3~~2. Fiscal Support and Financial Consultation**. (3-17-22)

**a.** The provider must provide each participant with fiscal support and financial consultation. (3-17-22)

~~**b.** The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic correspondence within five business (5) days. (7-1-24)~~

~~**04. Federal and State Forms Submitted**. Ensure each participant's compliance with regulations for both federal and state taxes, including preparation and submission of all federal and state forms for each participant and their employees. (7-1-24)~~

~~**05. Mandatory Reporting, Withholding, and Payment**. Perform all mandatory reporting, withholding, and payment actions according to the compliance requirements of the state and federal agencies. (7-1-24)~~

~~**06. Payroll Checks**. Issue payroll checks within the two (2) week or semi-monthly payroll cycle, after receipt of completed, approved time sheets. (7-1-24)~~

~~**07. Adherence to Support and Spending Plan**. Distribute payments to each participant employee under the participant's support and spending plan. (7-1-24)~~

~~**08. Record Activities**. Record all activities in an individual file for each participant and their employees. (7-1-24)~~

~~**09. Records in Participant File**. Maintain complete records in each participant's file. (7-1-24)~~

~~**10. Manage Phone, Fax, and E-Mail for Fiscal and Financial Questions**. (3-17-22)~~

~~**a.** The provider must manage toll-free telephone line, fax, and e-mail related to participant fiscal and financial questions. (3-17-22)~~

~~**b.** The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic correspondence within five (5) business days. (7-1-24)~~

~~**11. Track Complaints and Complaint Resolution**. (7-1-24)~~

~~**a.** The provider must maintain a register of complaints from participants, participant employees, and others, with corrective action implemented by the provider within one (1) business day of the complaint response. (7-1-24)~~

~~**b.** The provider must respond to ninety-five percent (95%) of calls and voicemails within two (2) business days and to written and electronic complaints within five (5) business days. (7-1-24)~~

~~**12. Web Access to Electronic Time Sheet Entry**. Maintain web access to electronic time sheet entry for participants. (7-1-24)~~

~~**13. Participant Enrollment Packets and Employment Packets**. Prepare and distribute participant enrollment and employment packets to each participant. (7-1-24)~~

~~**14. Payroll Spending Summaries**. Provide each participant with payroll spending summaries and information about how to read the payroll spending summary each time payroll is executed. (7-1-24)~~

~~15~~03. **Quarterly Reconciliation**. Each fiscal quarter after initiating service, the provider must reconcile its Medicaid Billing Report to a zero-dollar ($0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's ~~spending plan~~ SSP balance to a zero dollar ($0) balance with Medicaid's reimbursements. The provider must: ~~(7-1-24)~~( )

**a.** ~~Have~~Show one hundred percent (100%) compliance with the required quarterly reconciliation of the Medicaid Billing Report. ~~(7-1-24)~~( )

**b.** Notify the Department immediately if an issue is identified that may result in the provider not reconciling the Medicaid Billing Report. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized fifty dollars ($50) each week until the provider has reconciled with Medicaid to a zero dollar ($0) balance. (7-1-24)

~~16~~04. **Cash Management Plan**. Each provider's cash management plan must equal one point five (1.5) times the monthly payroll cycle amount and can be forms of liquid cash and lines of credit. For example, if a provider's current payroll minimum has averaged one hundred thousand dollars ($100,000) per payroll cycle, the provider would be required to have one hundred fifty thousand dollars ($150,000) in a cash management plan. The Department must be on the notification list if any lines of credit are decreased in the amount accessible or terminated. The expectation is to provide a seamless payroll cycle to the participant, without loss of pay to their employees. (7-1-24)

## 31~~1~~3. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): REPORTS.

**01. Account Summary Statements**. This report provides an overview of each participant account and includes the services accessed and the remaining dollar amount in the budget as well as information on how to read the report. In addition to ~~the provider~~ providing this monthly report ~~each month~~, a participant may request this report for a specified timeframe. Each month, the provider must at the participant's preference mail a hard copy of the report to each participant ~~and also~~ or make the report available on a secure website ~~for those who prefer to access the information electronically~~. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. ~~(3-17-22)~~( )

**a.** Report Format: ~~The provider must provide the account summary statement in~~ Microsoft Excel. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must post the account summary statement by t~~ The 10th day of each month. ~~(3-17-22)~~( )

**02. Medicaid Billing Report**. This report provides a detailed breakdown of ~~community support worker~~ CSW services rendered by service date per employee, per employer. Each line on this report must provide~~, at a minimum,~~ the following information: employee name~~, employee~~ and ID number, hours worked, period start, and period end, pay rate, service date, check number~~, check~~ and date, participant's name, participant's date of birth, participant's ID number, service code, taxes, and billing amount. This report collects information based on the timeframe specified by the user. The provider must generate the report after every payroll and post it on a secure

SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~ ~~(3-17-22)~~( )

**a.** Report Format: ~~The provider must provide the Medicaid Billing Report in~~ Microsoft Excel. ~~(3-17-22)~~( )

**b.** ~~Report Due Date: The provider must post the Medicaid Billing Report by t~~The 10th day of each month. ~~(3-17-22)~~( )

**03. Demographic Report**. This report provides general client demographics in the region and the employee count per participant for each participant in the database. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~ ~~(3-17-22)~~( )

**a.** Report Format: ~~The provider must provide the demographic report in~~ Microsoft Excel. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must post the demographic report by t~~ The 10th day of each month. ~~(3-17-22)~~( )

**04. ~~Criminal History~~Background Check Report**. This report provides a breakdown, by participant, of which employees the participant waived the background check, which employees passed or failed the background check, the ~~criminal history~~ background check reference number, and the date the background check was submitted. This report does not include ~~support broker~~ SBs. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. ~~This SFTP site must have a user name and password protection.~~ ~~(3-17-22)~~( )

**a.** Report Format: ~~The provider must provide the criminal history report in~~ Microsoft Word, Microsoft Excel, or PDF. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must post the criminal history report by t~~ The 10th day of each month. ~~(3-17-22)~~( )

**05. Medicaid Billing Report**. This report provides a list and count of the unduplicated participants and expenditures by services code based on the time frame specified by the user. The provider must generate the report after every payroll and post it on a SFTP site. Additionally, the provider must provide a quarterly Medicaid Billing Report that can been reconciled quarterly and work with the Department to reconcile the annual report. (3-17-22)

**a.** Report Format: ~~The provider must provide the Medicaid Billing Report in~~ Microsoft Excel. ~~(3-17-22)~~( )

**b.** Report Due Date: The ~~provider must post the Medicaid Billing Report by~~ 10th day of each month. ~~(3-17-22)~~( )

**06. Complaint and Resolution Summary Report**. The provider must analyze complaints received on a quarterly basis to determine the quality of services to participants and identify any corrective actions and program improvements needed and implemented. The provider must post the report on a secure SFTP site for Department review. (3-17-22)

**a.** Report Format: ~~The provider must provide the complaint and resolution summary report in~~ Microsoft Word, Microsoft Excel, or PDF. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must post the complaint and resolution summary report by t~~ The 10th day of the month following the end of each annual quarter. ~~(3-17-22)~~( )

**07. Customer Satisfaction Survey Report**. The provider must provide a comprehensive report summarizing the results of the customer satisfaction survey completed by each participant. (3-17-22)

**a.** Report Format: ~~The provider must provide the customer satisfaction survey report in~~ Microsoft Word, Microsoft Excel, or PDF. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must post the customer satisfaction survey report by~~ December 1st of each year. ~~(3-17-22)~~( )

**08. Quarterly Financial Statements**. The provider must provide the Department a quarterly balance sheet and income statement that shows the provider's quarterly financial status and cash management plan cash reserve. (3-17-22)

**a.** Report Format: ~~The provider must provide the quarterly balance sheet and income statement in~~ Microsoft Word, Microsoft Excel, or PDF. ~~(3-17-22)~~( )

**b.** Report Due Date: ~~The provider must provide the quarterly balance sheet and income statement on t~~The 25th day of the month following the end of each annual quarter. ~~(3-17-22)~~( )

**3124. FISCAL EMPLOYER AGENT ~~DUTIES AND RESPONSIBILITIES~~ (FEA): PAYMENT REQUIREMENTS.**

**01. ~~Requirement to Accept a~~ Per Member Per Month (PMPM) Payment**. The Department will pay, and the provider must accept a ~~per member per month (~~ PMPM~~)~~ payment that covers a comprehensive set of ~~fiscal employer agent~~ FEA services. The Department will set allowable reimbursement rates for PMPM based on a methodology approved by CMS in the Adult DD ~~HCBS~~ Waiver. The provider can only bill the PMPM rate for the months services are actually provided for participants, The provider must provide transition, training, and closeout services during the active agreement, at no additional cost to the Department. ~~(3-17-22)~~( )

**02. PMPM Payment Process Requirements**. The ~~payment (~~ PMPM~~)~~ payment must include all administrative costs, travel, transition, training, and closeout services. The Department will not pay for participants who do not have ~~a support and spending plan~~ an SSP. For the purposes of PMPM payment, one (1) month must include all payroll batch dates within that specific calendar month. ~~(3-17-22)~~( )

**03. ~~Requirement to Complete a~~ Readiness Review**. The provider must complete a readiness review prior to billing for services. ~~(3-17-22)~~( )

**3135. TERMINATION OF FISCAL EMPLOYER AGENT (FEA) PROVIDER AGREEMENTS.**

**~~01.~~ ~~Termination of the Provider Agreement~~**. ~~The following must occur i~~In the event of termination of ~~the~~ a provider agreement, the provider must: ~~(3-17-22)~~( )

**~~a~~01. Continuation of Services**. ~~The provider must ensure~~ Ensure continuation of services to participants for the period in which a ~~Per Member per Month (~~ PMPM~~)~~ payment has been made, and submit the information, reports and records, including the Medicaid Billing Report ~~(reconciliation)~~ as specified in ~~Section 310 of~~ these rules. ~~(3-17-22)~~( )

**~~b~~02. Advanced Notice**. ~~The provider must p~~ Provide to the Department a written notice ninety (90) days in advance and the change notification must occur at the end of the next calendar quarter. ~~(3-17-22)~~( )

**023. Termination of Service ~~to Participant~~**. ~~In the event of termination of the provider agreement, the provider must p~~ Provide to the participant a written notice ninety (90) days in advance. The change notification must occur at the end of the next calendar quarter. ~~(3-17-22)~~( )

**3146. REMEDIES TO NONPERFORMANCE OF A FISCAL EMPLOYER AGENT (FEA) SERVICE PROVIDER.**

**01. Remedial Action**. If any of the services do not comply with the performance metrics under ~~Section 310 of~~ these rules, the Department will consult with the provider and may, at its sole discretion, require any of the

following remedial actions, taking into account the scope and severity of the noncompliance, compliance history, ~~the number of noncompliances,~~ the integrity of the program, and the potential risk to participants. ~~(3-17-22)~~( )

**a.** Require the provider to take corrective action to ensure that performance meets the performance metrics under Section 310 of these rules; (3-17-22)

**b.** Reduce payment to reflect the reduced value of services received; (3-17-22)

**c.** Require the provider to subcontract all or part of the service at no additional cost to the Department; or (3-17-22)

**d.** Terminate the provider agreement with notice. (3-17-22)

**02. Direct Monetary Action**. If any of the performance metrics under Section 310 of these rules are not met, the Department will enforce a fifty dollar ($50) a week penalty for each performance metric not met. The penalty will be captured prior to any payment from the Department to the provider. (3-17-22)

**31~~5~~7. -- 999. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.03.14 – RULES GOVERNING HOSPITALS

## DOCKET NO. 16-0314-2401 (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. The action is authorized pursuant to Section(s) 56-202, Idaho Code, and 39-1307.

**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 September 18th, 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:

Hospital licensing requirements exist in Title 39 Chapter 13 of Idaho Code and IDAPA 16.03.14. To be eligible for funding from federal payors hospitals must also be certified through The Centers for Medicare and Medicaid Services (CMS). The certification process is comprehensive and requires an on-site survey to ensure compliance. Additionally, the health and safety standards for certification mirror state licensure requirements as described in 16.03.14. Given this duplication, the department will pursue a legislative proposal in 2025 to consolidate the licensing process, using the CMS certification standards as the benchmark for obtaining a hospital license.

The proposal will incorporate by reference The Code of Federal Regulations (CFR). It establishes that a certified hospital is also approved as meeting standards for licensing by the State of Idaho. Providers will be required to follow only one set of rules and can obtain both certification and licensure in one single process. Hospitals may still elect to have a CMS approved accreditation organization, or the department determine compliance with CFRs.

State specific standards, such as building design and construction guidelines, background check requirements, and licensure enforcement actions have also been incorporated into this revision or already exist elsewhere in code. Pending legislative approval this bill will repeal chapter 16.03.14, as the amended statue will contain all the necessary regulations to ensure the health and safety of the public.

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

Fees will not be increased by the elimination of this chapter.

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

There will not be an impact to the general fund greater than $10,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted as this is a repeal of the chapter and negotiated rulemaking is not necessary.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 24th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
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(208) 334-5500 phone; (208) 334-6558 fax
Alex.Adams@dhw.idaho.gov

**IDAPA 16.0314 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.04.07 – FEES FOR STATE HOSPITAL NORTH AND STATE HOSPITAL SOUTH

## DOCKET NO. 16-0407-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Section 56-1003, 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 September 18, 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:

This proposed rule intends to repeal IDAPA 16.04.07 because this chapter repeats Centers for Medicare and Medicaid Services' (CMS) regulations, state Medicaid rules, and/or state waiver authority. By eliminating this chapter, the Department of Health and Welfare removes duplicative regulations and reverts direct control to elected policy makers by proposing enacting in code long-standing provisions found in this rules chapter.

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

Fees will not be increased by the elimination of this chapter.

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

There will not be an impact to the general fund greater than $10,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted as this is a repeal of the chapter and the agency deems negotiated rulemaking as not necessary.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25, 2024.

DATED this 11th day of July, 2024.

Alex J. Adams, PharmD, MPH
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**IDAPA 16.04.07 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.04.18 – CHILDREN'S AGENCIES AND RESIDENTIAL LICENSING

## DOCKET NO. 16-0418-2401

## NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1207, 39-1208, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3rd, 2024 Idaho Administrative Bulletin, Vol. 24-7, pages 80 through 86.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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:

There will not be a negative fiscal impact greater than $10,000.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jared Larsen at 208-334-5500.

DATED this 18th day of July, 2024.

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# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.05.01 – USE AND DISCLOSURE OF DEPARTMENT RECORDS

## DOCKET NO. 16-0501-2401

## NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 6th, 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 56-202, Idaho Code, as well as Sections 39-242, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18th, 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 adds language detailing that the Department will provide information to the maximum extent possible to protect children from abuse. This rule change also deletes unnecessary regulatory burden.

**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:

The health and safety of the children of the State of Idaho is central to the mission of the Department of Health and Welfare. This temporary rule is necessary to detail the Department's position of being as transparent as possible in providing information to protect Idaho's children from abuse and neglect and to facilitate child and family services.

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

Fees are not increased as a result of this rulemaking.

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

There will not be a negative fiscal impact exceeding $10,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the immediate need to institute additional protections for Idaho's youth.

**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 Jared Larsen at 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 September 25th, 2024.

DATED this 6th day of August, 2024.

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 16-0501-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 16.05.01 – USE AND DISCLOSURE OF DEPARTMENT RECORDS

**000. LEGAL AUTHORITY.**
~~The Idaho Department of Health and Welfare and the Board of Health and Welfare have authority to promulgate rules governing the use and disclosure of Department records, according to~~ Sections 39-242, 56-221, 56-222, 56- 1003, and 56-1004, Idaho Code. ~~(3-17-22)~~(8-6-24)T

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title.** These rules are titled IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-17-22)~~

~~**02. Scope.**~~ These rules govern the use and disclosure of information maintained by the Department, in compliance with applicable state and federal laws, and federal regulations. ~~(3-17-22)~~(8-6-24)T

~~**a.** These rules apply to all Department employees, contractors, providers of services, and other individuals or entities who request or use that information. (3-17-22)~~

~~**b.** These rules apply to all use and disclosure information, regardless of the form in which it is retained or disclosed. (3-17-22)~~

~~**c.** All individuals and entities must comply with any standards in state or federal law or regulation that contain additional requirements, or are more restrictive than the requirements of these rules. (3-17-22)~~

*(BREAK IN CONTINUITY OF SECTIONS)*

**210. CHILD PROTECTION.**
~~Unless allowed by these rules or other provision of law,~~It shall be the policy of the Idaho Department of Health and Welfare to provide information to the maximum extent possible to carry out the department's responsibility under law to protect children from abuse and neglect and to facilitate child and family services. ~~t~~The Department, upon request will disclose information from child protection records in its possession ~~upon a court order obtained in compliance with Subsection 075.02 of these rules~~ pursuant to Section 74-105(7), Idaho Code. Disclosure of Department records

under the Child Protective Act is governed by Section 16-1629(6), Idaho Code, and Idaho Court Administrative Rule 32. Court records of Child Protective Act proceedings are governed by Section 16-1626, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106a. ~~Information regarding child fatalities or near fatalities may be made public.~~ ~~(3-17-22)~~(8-6-24)T

**01. Child Fatalities**. In accordance with 42 USC 5106a(b)(2)(B)(x), the Department will disclose non-identifying summary information to the Statewide Child Fatality Review Team, established by the Governor's Task Force on Children at Risk, regarding child fatalities that were determined to be the result of abuse, neglect, or abandonment. (3-17-22)

**02. Public Disclosure**. The Department has the discretion to disclose child-specific information under this rule when the disclosure is not in conflict with the child's best interests and one (1) or more of the following applies: (3-17-22)

**a.** Identifying information related to child-specific abuse, neglect, or abandonment has been previously published or broadcast through the media; (3-17-22)

**b.** All or part of the child-specific information has been publicly disclosed in a judicial proceeding; or (3-17-22)

**c.** The disclosure of information clarifies actions taken by the Department on a specific case. (3-17-22)

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 – CHILD AND FAMILY SERVICES

## DOCKET NO. 16-0601-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 16-0601-2301. Those sections of the rule affected by House Concurrent Resolution (HCR) 39 are being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the rejection:

Pursuant to **HCR 39**, IDAPA 16.06.01, "Child and Family Services," the entire rulemaking docket adopted as a pending rule under Docket Number **16-0601-2301**, is not consistent with legislative intent and is rejected in whole and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Sections 011, 012, 405, and 701 are reprinted here as rejected by HCR 39 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 2024.

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**The pending rule adopted under this docket was partially rejected by HCR 39.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

**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* ~~*Case carrying*~~ 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)

**13. 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)

**14. 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)

**15. 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)

**16. 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)

**17. 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)

**18. 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. Also known as fictive kin. (3-15-22)

**012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**
For the purposes of these rules, the following terms are used: (3-15-22)

**01. Legal Guardianship**. A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. (3-15-22)

**02. Licensed**. Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." (3-15-22)

**03. Licensing**. See IDAPA 16.06.02, "Child Care Licensing," Section 100. (3-15-22)

**04. Medicaid**. See "Title XIX." (3-15-22)

**05. Multiethnic Placement Act of 1994 (MEPA)**. MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color, or national origin. (3-15-22)

**06. Parent**. A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. (3-15-22)

**07. Permanency Planning**. A primary function of family services initiated in all cases to identify programs, services, and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-15-22)

**08. Personal Care Services (PCS)**. Services to eligible Medicaid recipients that involve personal and medically-oriented tasks dealing with the physical or functional impairments of the individual. (3-15-22)

**09. P.L. 96-272**. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-15-22)

**10. P.L. 105-89**. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-15-22)

**11. Planning**. An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-15-22)

**12. Qualified Expert Witness--ICWA**. An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether continued custody of the child by the parent(s), or Indian custodian(s), is likely to result in serious emotional or physical damage to the child. (3-15-22)

**13. Relative**. Person related to a child by blood, marriage, or adoption. (3-15-22)

**14. Relative Guardian**. A relative who is appointed a child's legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. (3-15-22)

**15. Reservation**. A reservation is an area of land "reserved" by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations. (3-15-22)

**16. Respite Care**. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (3-15-22)

***17. Responsible Party**. A Department social worker, clinician, or service provider who maintains responsibility and authority for case planning and case management. (3-15-22)*

***(BREAK IN CONTINUITY OF SECTIONS)***

**405. ALTERNATE CARE CASE MANAGEMENT.**
Case management must continue while the child is in alternate care and must ensure the following: (3-15-22)

**01. Preparation for Placement**. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. (3-15-22)

**02. Information for Alternate Care Provider**. The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-15-22)

**a.** Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (3-15-22)

**b.** The name of the child's doctor; (3-15-22)

**c.** The child's current functioning and behaviors; (3-15-22)

**d.** A copy of the child's portion of the service plan including any visitation arrangements; (3-15-22)

**e.** The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; (3-15-22)

**f.** A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (3-15-22)

**g.** The child's cultural and racial identity; (3-15-22)

**h.** Any educational, developmental, or special needs of the child; (3-15-22)

**i.** The child's interest and talents; (3-15-22)

**j.** The child's attachment to current caretakers; (3-15-22)

**k.** The individualized and unique needs of the child; (3-15-22)

**l.** Procedures to follow in case of emergency; and (3-15-22)

**m.** Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-15-22)

**03. Consent for Medical Care**. Parent(s) or legal guardian(s) have signed a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. (3-15-22)

**04. Financial Arrangements**. The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-15-22)

**05. Contact with Child**. The family, the family services worker, and the alternate care provider have established a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. (3-15-22)

**a.** Face-to-face contact with a child by the *responsible party* ~~*assigned family services worker*~~ must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the *responsible party* ~~*assigned family services worker*~~ and the child occurs where the child resides a minimum of once every sixty (60) days. *(3-15-22)*

**b.** The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. (3-15-22)

***c.*** *Face-to-face contact between the responsible party and a child placed in an in-state group or residential care facility, located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly.* *(3-15-22)*

***d.*** Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-15-22)

***e.*** *Children who are in out-of-state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either. Idaho will request the state in which the child is placed to have face-to-face contact with the child on a monthly basis. If the policy of the state in which the child is placed allows only for face-to-face contact every six (6) months, the responsible party in Idaho will contact the child and the child's caregiver each month by phone to confirm the child's safety and well-being.* *(3-15-22)*

**06. Discharge Planning**. Planning for discharge from alternate care are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

**07. Transition Planning**. Planning for discharge from alternate care into a permanent placement are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

**08. Financial and Support Services**. As part of the discharge planning, Departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. (3-15-22)

***(BREAK IN CONTINUITY OF SECTIONS)***

**701. SERVICES TO BE PROVIDED IN ADOPTIONS.**
In addition to the core services provided under these rules, the Department must assure provision of the following: (3-15-22)

**01. Response to Inquiries**. Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. (3-15-22)

**02. Pre-Placement Child/Family Assessment**. An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-15-22)

**03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions**. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-15-22)

**04. (Pre-Placement) Home Study**. An adoptive home study to ensure selection of an appropriate adoptive home. (3-15-22)

**05. Preparation for Placement**. Preparation of the child by an assigned *social worker* ~~*family services worker*~~ who will assist the child in addressing anticipated grief and loss due to separation from their parents and assisting the child with the transition into an adoptive home. *(3-15-22)*

**06. Technical Assistance**. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-15-22)

**07. Adoption Assistance**. A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of their adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-15-22)

**08. Period of Support Supervision**. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months. (3-15-22)

**09. Post Adoption Services**. Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, whether from Idaho or from another state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state will serve as a formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-15-22)

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 – CHILD AND FAMILY SERVICES

## DOCKET NO. 16-0601-2401 (ZBR CHAPTER REWRITE)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209, 39-1210, 39-1211, 39-5603, 39-7501, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Tuesday, September 24, 2024**<br>**5:00 p.m.-6:30 p.m. (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=mb6d1b37aa5494a462c2f3681a0e27ef7**<br><br>**Join by meeting number**<br>**Meeting number (access code): 2827 774 5522**<br>**Meeting password: xgWKtJGT867 (94958548 when dialing from a phone or video system)**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Wednesday, September 25, 2024**<br>**9:00 a.m.-10:30 a.m. (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=m66fdebdedf40b8d8a3f115a7dd21b6cd**<br><br>**Join by meeting number**<br>**Meeting number (access code): 2821 845 1687**<br>**Meeting password: hrDtaaCf32 (47382223 when dialing from a phone or video system)**<br><br>**Join by phone**<br>**+1-415-527-5035 United States Toll**<br>**+1-303-498-7536 United States Toll (Denver)** |

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:

In compliance with Executive Order Number 2020-01, Zero- Based Regulation a complete review and re-write of the rule was completed. The focus of the review and re-write was to eliminate outdated rules and streamline the rule chapter to be more clear. Rather than incorporating federal and state laws into the rule itself, references to those laws were used to ensure the public has the ability to review the source of those regulations directly. Content in the rule was reorganized to ensure topics were in the same place in the rule rather than being discussed in several different areas of the rule. Language was updated as well to be more clear and align with current practice. The rule was updated to ensure compliance with recent court rulings related to the child welfare program. Some of the larger changes to the rule were related to changes regarding the placement of individuals on the central registry to ensure due process, elimination of fees related to adoptions and adoption home studies, expanding the definition of family service worker, and removing the foster care reimbursement fees from the rule to be published on the department's website.

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

Fees will not be increased as a result of this rule 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:

There will not be a negative fiscal impact exceeding $10,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3rd, 2024 Idaho Administrative Bulletin, Volume 24-4, pages 23 and 24.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 6th day of August, 2024.

Alex J. Adams, PharmD, MPH
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Idaho Department of Health & Welfare
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-2401**
**(ZBR Chapter Rewrite)**

## 16.06.01 – CHILD AND FAMILY SERVICES

**000. LEGAL AUTHORITY.**
~~The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections:~~These rules are established to govern the statewide provision of services associated with child protection, foster care, and adoption under the following statutes: Sections 16-1601, 16-1629, 16-1623, 16-2001, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-204B, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code. ~~(3-15-22)~~( )

~~**001. TITLE, SCOPE, AND GOAL.**~~

~~**01. Title**. These rules are titled IDAPA 16.06.01, "Child and Family Services." (3-15-22)~~

~~**02. Scope**. These rules are established to govern the statewide provision of: (3-15-22)~~

~~**a.** Services associated with child protection, alternate care, and adoption; and (3-15-22)~~

~~**b.** As resources are available, services aimed at preventing child abuse, neglect, and abandonment. (3-15-22)~~

~~**03. Goal**. The goal of all Child and Family Services programs is the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families.~~ (3-15-22)

**00~~2~~1. -- 008. (RESERVED)**

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

**01. Compliance With Department Criminal History and Background Check**. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-15-22)

~~**02. Availability to Work or Provide Service**. Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers.~~ (3-15-22)

~~**03. Adoption**. An individual applying to the Department to be an adoptive parent or petitioning the court for the adoption of a child must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks."~~ (3-15-22)

**010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.**
For the purposes of these rules, the following terms are used: (3-15-22)

~~**01. Adoption and Safe Families Act of 1997 (P.L. 105-89) (ASFA)**. Federal law whose purpose is to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to~~

~~support families.~~ ~~(3-15-22)~~

~~02. Adoption Assistance. Funds provided to adoptive parent(s) of a child who has special needs or who could not be adopted without financial or medical assistance.~~ ~~(3-15-22)~~

03. **Adoption Services**. Protective services through which a child is provided with a permanent home, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (3-15-22)

04. **Alternate Care**. Temporary living arrangements, when necessary for a child to leave their own home, through a variety of foster care, respite care, residential treatment, and institutional resources, under the protections established in ~~Public Law~~ P.L. 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997 (ASFA), ~~the Child Protective Act, Section 16-1601 et seq., Idaho Code~~ Title 16, Chapter 16, Idaho Code, and the Indian Child Welfare Act (ICWA), 25 U.S.C. Sections 1901-1963. ~~(3-15-22)~~( )

05. **~~Alternate Care~~ Child's Plan**. A federally required component of the ~~Family Plan~~ family case plan for a child in alternate care. The ~~alternate care~~ child's plan contains elements related to reasonable efforts, the family's plan, the child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, ~~immunization,~~ medical, and other information important to the day-to-day care of the child. ~~(3-15-22)~~( )

06. **Board**. The Idaho State Board of Health and Welfare. (3-15-22)

07. **Case Management**. A change-oriented service to families that ensures and coordinates ~~the provision of family~~ ongoing assessment, family ~~service~~ case planning, treatment, ~~planning for~~ permanency, ~~protection~~ planning, child safety, advocacy, ~~review and reassessment,~~ documentation, and timely closure of a case. ~~(3-15-22)~~( )

~~08. Certified Adoption Professional (formerly "qualified individual"). An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports.~~ ~~(3-15-22)~~

09. **Child and Family Services (CFS)**. Those programs and services provided to families and children, administered by the ~~D~~department in accordance with these rules. ~~(3-15-22)~~( )

~~10. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter must be served without regard to income.~~ ~~(3-15-22)~~

~~11~~07. **Child Protective Services**. Services provided in response to potential, alleged, or actual abuse, neglect, or abandonment of individuals under the age of eighteen (18) in accordance with the provisions ~~of Section 16-1601 et seq., Idaho Code, the "Child Protective Act."~~ Title 16, Chapter 16, Idaho Code. ~~(3-15-22)~~( )

~~12~~08. **Compact Administrator**. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of ~~Section 16-1901 et seq., Idaho Code, "Interstate Compact for Juveniles";~~ Title 16, Chapter 19, Idaho Code; ~~Section 16-2101 et seq., Idaho Code, "Interstate Compact on the Placement of Children";~~ Title 16, Chapter 21, Idaho Code; or ~~Section 39-7501 et seq., Idaho Code, "Interstate Compact on Adoption and Medical Assistance."~~ Title 39, Chapter 75, Idaho Code. ~~(3-15-22)~~( )

~~13~~09. **Daycare ~~for Children~~**. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. ~~(3-15-22)~~( )

10. **Department**. The Idaho Department of Health and Welfare. (3-15-22)

**151.** **Deprivation**. One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. (3-15-22)

**162.** **Director**. The Director of the Idaho Department of Health and Welfare or their designee. (3-15-22)

**173.** **Extended Family Member of an Indian Child**. As defined by the law~~,~~; or custom of ~~an~~ the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is ~~an~~ the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. ~~(3-15-22)~~( )

**184.** **Extended Foster Care**. A court order or voluntary case extending foster care placement services and authority for individuals between the ages of eighteen (18) and twenty-one (21) years to help such person achieve a successful transition to adulthood, ~~provided such person must have been~~ providing they were in the custody of the department until ~~his~~ their eighteenth birthday and must meet the criteria set forth in 42 25 U.S.C. 675(8)(B)(iv). ~~(3-15-22)~~( )

**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~~ understanding of strengths and resources that can support them in creating long-term solutions related to identified ~~service needs and~~ safety threats ~~to~~ and needs to support family integrity, unity, ~~or~~ and the ability to care for their ~~members~~ children. ~~(3-15-22)~~( )

**03.** **Family Case Record**. ~~Electronic and hard copy c~~ 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~~ to guide the provision of services. The plan identifies who does what, when, how, and why. ~~The family plan~~ and incorporates ~~any special~~ specific plans ~~made~~ for ~~individual family members~~ case participants. If the family includes an Indian child, or child's tribe, tribal elders or leaders ~~should be~~ are consulted early in the plan development. ~~(3-15-22)~~( )

**05.** **Family Services Worker**. Case carrying personnel working in regional Child and Family Services Programs. (7-1-24)

~~**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)~~

**076.** **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)~~

**097.** **Independent Living Services**. ~~Services p~~ 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~~08.** **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~~09. **Indian Child**. Any unmarried person who is under the age of eighteen (18) ~~who~~ and is either: ~~(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)~~

1~~3~~0. **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)

141. **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)

~~15. 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)~~

~~16. 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)~~

1~~7~~2. **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)

1~~8~~3. **Kin**. ~~Non-relatives~~Individuals who do not meet the definition of relative in Section 16-1602, Idaho Code, who have a significant, family-like relationship with a child. Kin may include extended family members, godparents, close family friends, clergy, teachers, and members of an ~~child's~~ Indian child's 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)~~( )

**012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**
For the purposes of these rules, the following terms are used: (3-15-22)

**01. Legal Guardianship**. A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. (3-15-22)

~~02. Licensed. Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." (3-15-22)~~

~~03. Licensing. See IDAPA 16.06.02, "Child Care Licensing," Section 100. (3-15-22)~~

~~04. Medicaid. See "Title XIX." (3-15-22)~~

~~**05. Multiethnic Placement Act of 1994 (MEPA)**. MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color, or national origin.~~ ~~(3-15-22)~~

0~~6~~2. **Parent**. A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. (3-15-22)

0~~7~~3. **Permanency Planning**. ~~A primary function of family services initiated in all cases to identify~~ The identification of programs, services, and activities designed to establish permanent home and family relationships for children ~~within a reasonable amount of time~~. ~~(3-15-22)~~( )

~~**08. Personal Care Services (PCS)**. Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual.~~ ~~(3-15-22)~~

~~**09. P.L. 96-272**. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980."~~ ~~(3-15-22)~~

~~**10. P.L. 105-89**. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family.~~ ~~(3-15-22)~~

~~**11. Planning**. An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints.~~ ~~(3-15-22)~~

~~**12. Qualified Expert Witness - ICWA**. An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether continued custody of the child by the parent(s), or Indian custodian(s), is likely to result in serious emotional or physical damage to the child.~~ ~~(3-15-22)~~

~~13~~04. **Relative**. ~~Person related to a~~ A child's child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling and half sibling by blood, marriage, or adoption. ~~(3-15-22)~~( )

~~14~~05. **Relative Guardian**. A relative who is appointed a child's legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. (3-15-22)

~~15~~06. **Reservation**. ~~A reservation is an area of land "reserved" by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations~~ Indian country as defined in 18 U.S. Code Section 1151 and any lands, not covered under such section, title to which is held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. ~~(3-15-22)~~( )

~~16~~07. **Respite Care**. ~~Time-limited care provided to children. Respite care is utilized in circumstances that require s~~ Short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. ~~The duration of an episode of r~~ Respite care ranges from one (1) partial day up to fourteen (14) consecutive days. ~~(3-15-22)~~( )

**08. Responsible Party**. A department social worker, clinician, family services worker, or services provider who maintains responsibility and authority for case planning and case management. ( )

**013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.**
For the purposes of these rules, the following terms are used: (3-15-22)

~~**01. SSI (Supplemental Security Income)**. Income maintenance grants for eligible persons who are aged, blind, or disabled. These grants are provided under Title VI of the Social Security Act and are administered by~~

~~the Social Security Administration and local Social Security Offices.~~ ~~(3-15-22)~~

0~~2~~1. **Safety Assessment**. A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. (3-15-22)

0~~3~~2. **Safety Plan**. Plan developed by the ~~D~~department and a family that assures the immediate safety of a child ~~who has been determined to be conditionally safe or unsafe~~. ~~(3-15-22)~~( )

0~~4~~3. **Sibling**. One (1) of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. (3-15-22)

~~05. State-Funded Guardianship Assistance. Benefits described in Subsection 702.04 and Section 704 of these rules provided to a legal guardian for the support of a child who meets the eligibility criteria.~~ ~~(3-15-22)~~

~~06. TAFI. Temporary Assistance to Families in Idaho.~~ ~~(3-15-22)~~

~~07. Title IV-E. Title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children.~~ ~~(3-15-22)~~

~~08. Title IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency, or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act.~~ ~~(3-15-22)~~

~~09. Title XIX (Medicaid). Title under the Social Security Act that provides "Grants to States for Medical Assistance Programs."~~ ~~(3-15-22)~~

~~10. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act that provides access to health care for uninsured children under the age of nineteen (19).~~ ~~(3-15-22)~~

~~11~~04. **Tribal Court**. A court with jurisdiction over child-custody proceedings ~~including~~ and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe vested with authority over child custody proceedings. ~~(3-15-22)~~( )

~~12. Unmarried Parents' Services. Services aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for any unmarried parents who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code.~~ ~~(3-15-22)~~

~~13~~05. **Voluntary Services Agreement**. A written and executed agreement between the ~~D~~department and parents or legal guardians regarding the ~~goal,~~ provision of voluntary foster care placement of a child and includes areas of concern, desired results, and task responsibility~~, including payment~~. ~~(3-15-22)~~( )

06. **Withholding of Medically Indicated Treatment**. Withholding of medically indicated treatment as defined by 42 U.S.C. 5106g(a)(5). ( )

**014. -- 019. (RESERVED)**

**GENERAL REQUIREMENTS AND SERVICES**
**(Sections 020-239)**

**020. GENERAL REQUIREMENTS APPLICABLE TO ALL CHILD AND FAMILY SERVICES PROGRAMS.**

~~**01. Information, Referral and Screening**. All residents of the state of Idaho, regardless of the duration of their residency or their income are entitled to receive, upon referral or request: (3-15-22)~~

~~**a.** Accurate and current information about services to children and families provided through the Department. (3-15-22)~~

~~**b.** Referral to other appropriate public or private services available in the community; and (3-15-22)~~

~~**c.** A screening to determine service needs and safety threats that can be addressed through Child and Family Services. (3-15-22)~~

0~~2~~1. **Initiating Child and Family Services**. Child and Family Services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written ~~voluntary~~ request for services. Efforts will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. ~~(3-15-22)~~( )

a. A screening is conducted to determine service needs and safety threats that can be addressed through Child and Family Services. ( )

b. Upon referral or application for services, the family services worker must inform the family that: ( )

i. They have the right to accept or reject services offered by the department, except those services imposed by law or by a court order; ( )

ii. Fees may be charged for certain services, and that the parent(s) has the financial responsibility for the child in care; ( )

iii. They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including any decision not to provide services or to discontinue services; the department's failure to act upon a referral or request for services within thirty (30) days; or a decision to remove a child from an alternate care placement unless court-ordered or court-authorized. ( )

0~~3~~2. **Individual Authorized to Request Voluntary Services**. Requests for voluntary services must be made by a ~~family member~~ parent or ~~by~~ an authorized representative~~, or by someone acting on behalf of an incompetent or incapacitated person~~. ~~(3-15-22)~~( )

~~**04. Record of Request for Services**. The date of referral or request for services will be documented in the records of the field office. (3-15-22)~~

~~**05. Information to Be Provided to Family**. Upon referral or application for services, the family services worker must inform the family that: (3-15-22)~~

~~**a.** They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; (3-15-22)~~

~~**b.** Fees may be charged for certain services, and that the parent(s) has financial responsibility for the child in care; (3-15-22)~~

~~**c.** They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including any decision not to provide services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court ordered or court authorized. (3-15-22)~~

**021. -- 029. (RESERVED)**

**030. CORE CHILD AND FAMILY SERVICES.**

In addition to other services included in this chapter, the following Sstate and federally mandated core services are provided by or to eligible youth and/or families through regional the Child and Family offices include Services Program: (4-6-23)( )

**01. Crisis Services**. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger because of child abuse, neglect, or abandonment. Crisis services require immediate access to services always to assess safety and place in alternate care, if necessary, to ensure safety for the child. (4-6-23)

**02. Screening Services**. Initial contact with families and children to gather information to determine whether the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (4-6-23)

**031. Assessment and Safety/ServiceCase Planning Services**. A family Aassessment process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified after which a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. Assessment results inform the development and implementation of the case plan. (4-6-23)( )

**042. Prevention Services**. Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (4-6-23)

**a.** These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can be implemented through community education, and partnerships with other community agencies such as schools and courts. (4-6-23)

**b.** The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (4-6-23)

**05. Court Ordered Services**. These services primarily involve court ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (3-15-22)

**063. Alternate Care (Placement) Services**. Temporary living arrangements outside of the family home for children and youth minors who are victims of child abuse, neglect, or abandonment are placed in the care or custody of the department under Title 16, Chapter 16, Idaho Code. The Ddepartment arranges and finances, in full or in part, out-of-home placements. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a child placement or child care agency. (4-6-23)( )

**07. Community Support Services**. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (3-15-22)

**084. Interstate Compact on Out-of-State Placements**. Where necessary to encourage all possible positive contacts between a child in alternate care with family relatives, kin, and, including extended family, placement with family members or others who are families outside the state of Idaho will be considered. On very rare occasion tThe Ddepartment may contract with a residential facility out-of-state if it best serves the needs of the child. and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such p Placement will be coordinated with the respective interstate compact administrator

according to the provisions of ~~Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must follow all state and federal laws~~ Title 16, Chapter 21, Idaho Code. ~~(4-6-23)~~( )

**0~~9~~5. Independent Living**. Services, including assessment and planning, provided to eligible youth and young adults to promote self-reliance and successful transition to adulthood. ~~(3-15-22)~~( )

**a.** Eligibility - Current ~~Foster Youth. To be eligible for independent living services, the youth must~~ foster youth or young adults will: ~~(4-6-23)~~( )

i. Be fourteen (14) to twenty-one (21) years of age; (3-15-22)

ii. Currently be under ~~D~~department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-one (21) years of age; and ~~(3-15-22)~~( )

**b.** Eligibility - ~~Former Foster Youth. To be eligible for independent living services, the youth must~~ Youth or young adults formally in foster care will: ~~(4-6-23)~~( )

i. Be ~~a former foster youth who is currently under twenty-three~~ (23) years of age; and ~~(3-15-22)~~( )

ii. Have been under ~~D~~department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and ~~(3-15-22)~~( )

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching sixteen (16) years of age or have aged out of foster care; or (3-15-22)

iv. Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

**c.** Eligibility Limit. Once established as in Subsection 030.09.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (3-15-22)

**~~10~~06. Adoption Services**. ~~Department s~~ Services designed to promote and support the permanency of children ~~with special needs~~ in foster care through adoption. This involves the legal and permanent transfer of parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. ~~Adoption services seek to build the community's capacity to deliver adoptive services.~~ ~~(4-6-23)~~( )

~~**11. Administrative Services**. Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families include:~~ ~~(4-6-23)~~

~~**a.** Child care licensing; (3-15-22)~~

~~**b.** Daycare licensing; (3-15-22)~~

~~**c.** Community development; and (3-15-22)~~

~~**d.** Contract development and monitoring. (3-15-22)~~

**031. -- 049. (RESERVED)**

**050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.**
~~The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes.~~ ~~(3-15-22)~~

**01. Reasonable Efforts**. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. (3-15-22)

**a.** Efforts to prevent or eliminate the need for a child to be removed from their home; (3-15-22)

**b.** Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (3-15-22)

**c.** Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (3-15-22)

**02. Active Efforts**. ~~The e~~ Efforts beyond reasonable efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. ~~(3-15-22)~~( )

**03. ~~ICWA Placement Preferences~~Compliance with the Indian Child Welfare Act of 1978**. ~~(3-15-22)~~( )

~~**a.** When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. (3-15-22)~~

~~**b.** When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. (3-15-22)~~

~~**c.** When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. (3-15-22)~~

~~**04. Least Restrictive Setting**. Efforts will be made to ensure that any child in the Department's care resides in the least restrictive, most family like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. (3-15-22)~~

**0~~5~~4. Legal Requirements for Indian Children**. When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

**0~~6~~5. Visitation for Child's Parent(s) or Legal Guardian(s).** ~~Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety.~~ The department should determine the scope, duration, and manner of visitation that best promotes the best interest of the child and ensures that visitation does not impair the physical or mental health of a child. In-person visitation arrangements between a child and a parent who has been substantiated at a Level One or Two by the department for one of the following: sexual abuse, sexual exploitation, or physical abuse will not be granted unless it is in the best interest of the child and the child's physical and/or mental health will not be impaired. If in-person visitation is granted, it will only occur under the following conditions: ~~(3-15-22)~~( )

**a.** Approved by a program manager, after consultation with the child's guardian ad litem, where applicable, who concludes that in-person visitation is in the best interest of the child and that the child's physical and/or mental health will not be impaired; ( )

**b.** Under conditions set forth by the program manager. Conditions of supervised visitation will include the following: ( )

i. The parent will not be left alone with the child for any reason, including restroom breaks; ( )

ii. For sexual abuse and exploitation cases, the parent will not allow the child to sit on his or her lap; ( )

iii. The parent will not be allowed to engage in secret conversations or other communication that cannot be monitored in real time; ( )

**c.** The best interest decision and visit conditions are documented and explained in writing. ( )

~~**07. Notification of Change in Placement**. Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe.~~ ~~(3-15-22)~~

0~~8~~6. **Notification of Change in Visitation**. ~~Written n~~ Notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. ~~(3-15-22)~~( )

~~**09. Notification of Right to Participate and Appeal**. Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation.~~ ~~(3-15-22)~~

~~10~~07. **Qualified Expert Witness (QEW) under ICWA**. The testimony of an expert witness is required at the hearing in which an Indian child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A QEW must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. The department, the court, or any party may request the assistance of the Indian child's Tribe or the Bureau of Indian Affairs office serving the Indian child's Tribe in locating persons qualified to serve as expert witnesses. ~~A person who is most likely to be a qualified expert witness~~ QEW ~~in the placement of an Indian child~~ in order of preference is: ~~(3-15-22)~~( )

**a.** A member of the Indian child's ~~t~~Tribe ~~who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices~~; ~~(3-15-22)~~( )

**b.** ~~An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or~~A member of the Tribe of the Indian child's parent; ~~(3-15-22)~~( )

**c.** ~~A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community.~~A descendant of the Indian child's Tribe; ~~(3-15-22)~~( )

**d.** A member of a tribe recognized as sharing the same ethnicity, language, territory, traditions, or customs as the child's tribe; ( )

**e.** A member of any federally recognized tribe; ( )

**f.** An individual not meeting the definitions in (a) through (e) who is designated by the child's Tribe as qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe. ( )

**g.** The family services worker regularly assigned to the Indian child may not serve as a QEW in proceedings concerning the child. ( )

~~11~~08. **Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic ~~Adoption Provisions~~ Placement (IEPA) of 1996**. ~~(3-15-22)~~( )

~~a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin.~~ ~~(3-15-22)~~

~~b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin;~~ ~~(3-15-22)~~

~~c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes;~~ ~~(3-15-22)~~

~~d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests;~~ ~~(3-15-22)~~

~~e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and~~ ~~(3-15-22)~~

~~f~~**a.** Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (3-15-22)

~~12~~09. **Family Decision-Making and Plan Development**. (3-15-22)

**a.** A ~~family~~ case plan will be completed within thirty (30) days of the date the case was opened. ~~(3-15-22)~~( )

**b.** Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-15-22)

**c.** Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the ~~D~~department and the family as well as signed by the family. A new plan must be negotiated at least annually. ~~(3-15-22)~~( )

1~~3~~0. **Compelling Reasons**. Reasons why the parental rights of a parent of a child in the ~~D~~department's care and custody should not be terminated when the child has been in the custody of the ~~D~~department for fifteen (15) out of the most recent twenty-two (22) months. ~~(3-15-22)~~( )

**a.** These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. (3-15-22)

**b.** A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. (3-15-22)

**c.** When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (3-15-22)

1~~3~~1. ~~**ASFA Placement**~~ **Permanency Preferences**. The following ~~placement~~ preferences will be considered in the order listed below when recommending and making permanency decisions: ~~(3-15-22)~~( )

**a.** Return home if safe to do so; (3-15-22)

**b.** Adoption or legal guardianship by a relative or kin; (3-15-22)

**c.** Adoption or legal guardianship by non-relative; (3-15-22)

**d.** Another planned permanent living arrangement such as long-term foster care. (3-15-22)

**051. NOTICE REQUIREMENTS FOR ICWA.**

**01. Notice of Pending Proceedings -- Who is Notified**. When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via Registered Mail, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. (3-15-22)

**02. Rights Under a Notice of Pending Proceedings**. Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

**03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown**. If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. (3-15-22)

**052. -- 059. (RESERVED)**

**060. FAMILY CASE RECORDS.**

**01. Electronic and Physical Files**. The ~~D~~department will maintain an electronic file and a physical file containing information on each family receiving services. The physical file will contain non-electronic documentation such as originals or original copies of all court orders, birth certificates, social security cards, and assessment information that is original outside the ~~D~~department. ~~(3-15-22)~~( )

**02. Storage of Records**. All physical family case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. (3-15-22)

**a.** Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the ~~D~~department's central adoption unit for permanent storage. ~~(3-15-22)~~( )

**b.** Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (3-15-22)

~~**061. -- 239. (RESERVED)**~~

~~**REVIEWS AND HEARINGS**~~
~~**(Sections 240-399)**~~

~~**240. SIX-MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENT.**~~
~~When a judicial review does not occur at the end of a six (6) month period for any child in alternate care placement, the Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child.~~ ~~(3-15-22)~~

~~**01. Notice of Six-Month Review**. The parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child, are to be provided with notice of their right to be heard in the six-month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be~~

~~provided with notice. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice.~~ ~~(3-15-22)~~

~~**02. Procedure in the Six-Month Review**. The parties who received notice will be given the opportunity to participate in the case review.~~ ~~(3-15-22)~~

~~**03. Members of Six-Month Review Panel**. The six-month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from the Department's Child and Family Services Program Manager or their designee, to enable them to understand the review process and their roles as participants.~~ ~~(3-15-22)~~

~~**04. Considerations in Six-Month Review**. Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, each of the following must be addressed in a six-month review:~~ ~~(3-15-22)~~

~~**a.** Determine the extent of compliance with the family services plan;~~ ~~(3-15-22)~~

~~**b.** Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement;~~ ~~(3-15-22)~~

~~**c.** Review compliance with the Indian Child Welfare Act, when applicable;~~ ~~(3-15-22)~~

~~**d.** Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and~~ ~~(3-15-22)~~

~~**e.** Project a date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship, or other permanent placement.~~ ~~(3-15-22)~~

~~**05. Recommendations and Conclusions of Six-Month Review Panel**. Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights.~~ ~~(3-15-22)~~

**~~241~~061. -- 399. (RESERVED)**

## ALTERNATE (OUT-OF-HOME) CARE
## (Sections 400-424)

**400. AUTHORITY FOR ALTERNATE CARE SERVICES.**
Upon approval of the regional Child and Family Services Program Manager or their designee, the ~~D~~department may provide or purchase alternative care under the following conditions: ~~(3-15-22)~~( )

**01. Department Custody**. When the child is in the legal custody or guardianship of the ~~D~~department; or ~~(3-15-22)~~( )

**02. Voluntary Placement**. ~~Upon a~~ Agreement with the parent(s) or legal guardian(s) ~~or young adult under extended foster care when~~ after the parent(s) or legal guardian(s) request assistance from the agency due to circumstances that interfere with their ~~provision of proper care~~ ability to meet the needs of or they are no longer able to maintain a child in their home and ~~they can benefit from social work and treatment services~~ it is in the best interest of the child for an out of home placement with case planning services to address the family situation. Young adults who exited foster care at age 18, who are not yet 21, may also enter a voluntary placement under extended foster care. ~~(3-15-22)~~( )

**a.** A ~~service~~ case plan and an out-of-home placement agreement must be developed between the

Department and the family. The ~~service~~ case plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. ~~(3-15-22)~~( )

**b.** A voluntary agreement for out-of-home placement entered into between the ~~D~~department and the parent(s) or legal guardian(s) of a minor child that specifies the legal obligations of all parties and may be revoked at any time by the child's parent(s) or legal guardian(s) and the child must be returned to the parent or legal guardian ~~upon their request~~ unless a court determines that the return of the child would be contrary to the child's best interest. ~~(3-15-22)~~( )

**c.** A contract between the ~~D~~department and the service provider, if applicable, must also be in effect. ~~(3-15-22)~~( )

**d.** ~~Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best interests of the child to continue their current placement cannot be reimbursed by Title IV-E funds~~When seeking federal funding the department will comply with the Social Security Act section 472. ~~(3-15-22)~~( )

**e.** Indian child. Where any parent or Indian custodian voluntarily consents to a foster care placement, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian fully understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian unless a court determines that the return of the child would be contrary to the child's best interest. ( )

**401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.**

The ~~D~~department will make ~~meaningful reasonable attempts,~~ timely and ongoing efforts to identify and notify, both verbally and in writing~~, to inform in priority order,~~ individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The ~~D~~department ~~will place children in a safe and trusted environment~~ will comply with 16-1629(11), Idaho Code, to make reasonable efforts to place the child in the least restrictive environment to the child consistent with the best interest and special needs of the child~~ren as required by P.L.96-272, Section 475(5). Ideally, placement priority will be given in the following order: (a) Immediate family; (b) Extended family members; (c) Non-family members with a significant established relationship with the child; (d) other licensed foster parent(s). Upon immediate contact with persons in categories a) through d) above, and after preliminary screening, within seventy-two (72) hours of decision to place, Departmental staff will make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement will in all cases include consideration of~~ and follow placement priority: ~~(3-15-22)~~( )

**01. Family Assessment**. ~~The family assessment conducted in accordance with the provisions of the CFS Practice Standards~~ Relatives and non-relatives must comply with IDAPA 16.06.02 as a condition of licensed placement. ~~(3-15-22)~~( )

**~~02. Ability of Providers~~**. ~~The ability of potential alternate care providers to address and be sensitive to the unique and individual needs of the child and ability to comply and support the plan for the child and their family.~~ ~~(3-15-22)~~

**~~03. Family Involvement~~**. ~~The involvement of the family in planning and selecting the placement. The Department will use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments.~~ ~~(3-15-22)~~

**402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.**

**01. Involuntary**. ~~p~~Placement of an Indian child in foster care must be based upon clear and convincing

evidence, including information from a qualified expert witness~~es, that the continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. In the absence of good cause to the contrary, a preference must be given to placement with:~~ that active efforts were made to prevent the Indian child's placement or are preventing reunification. ~~(3-15-22)~~( )

**02.** **Notice**. Notice to the child's Tribe will be made as stated in Subsection 05.01 of these rules. ( )

**03.** **Accepted**. An Indian child accepted for foster care or proadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. ( )

**04.** **Placement**. In any foster care or preadoptive placement of an Indian child where the child's Tribe has not established a different order of preference, preference must be given, in descending order, as listed below, to the placement of the child with: ( )

~~01~~**a.** Extended Family. A member of the Indian child's extended family; (3-15-22)

~~02~~**b.** Foster Home Approved by Tribe. A foster home licensed ~~or~~ approved, as specified by the Indian child's tribe; ~~(3-15-22)~~( )

~~03~~**c.** Licensed Indian Foster Home. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-15-22)

~~04~~**d.** Indian Institution. An institution for children approved by an Indian tribe or operated by an Indian organization ~~that~~ which has a program suitable to meet the child's needs. ~~(3-15-22)~~( )

**403. DATE A CHILD ENTERED FOSTER CARE.**
A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations must be based on this date. ~~All periodic reviews, permanency hearings, and time frames for termination of parental rights must be based on the date the child entered foster care~~ However for the purpose of funding the department will follow requirements included in the Social Security Act Section 475. ~~(3-15-22)~~( )

**404. FOSTER CARE GOAL.**
It is the goal of the Department that not more than twenty-five percent (25%) of foster youth will be in foster care longer than twenty-four (24) months. The Department will monitor this goal annually. (3-15-22)

**405. ALTERNATE CARE CASE MANAGEMENT.**
Case management must continue while the child is in alternate care and must ensure the following: (3-15-22)

**01.** **Preparation ~~for~~ Provided to the Placement**. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. ~~(3-15-22)~~( )

**02.** **Information for Alternate Care Provider**. The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-15-22)

**a.** Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (3-15-22)

**b.** The name of the child's doctor; (3-15-22)

**c.** The child's current functioning and behaviors; (3-15-22)

**d.** A copy of the child's portion of the ~~service~~ case plan including any visitation arrangements;

~~(3-15-22)~~( )

**e.** The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; (3-15-22)

**f.** A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (3-15-22)

**g.** The child's cultural and racial identity; (3-15-22)

**h.** Any educational, developmental, or special needs of the child; (3-15-22)

**i.** The child's interest and talents; (3-15-22)

**j.** The child's attachment to current caretakers; (3-15-22)

**k.** The individualized and unique needs of the child; (3-15-22)

**l.** Procedures to follow in case of emergency; and (3-15-22)

**m.** Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-15-22)

**03. Consent for Medical Care**. ~~Parent(s) or legal guardian(s) have signed a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record~~ Whenever possible the parent(s) or legal guardian(s) should sign for medical, dental, or mental health appointments. The department will follow Section 16-1602(29), Idaho Code, when parent(s) or legal guardian(s) are unavailable and Section 16-1627, Idaho Code, when authorization for emergency medical treatment is needed. ~~(3-15-22)~~( )

~~**04. Financial Arrangements**. The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted.~~ ~~(3-15-22)~~

**0~~5~~4. Contact with Child**. The family, the family services worker, and the alternate care provider ~~have~~ will establish~~ed~~ a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. ~~(3-15-22)~~( )

**a.** Face-to-face contact with a child by the assigned family services worker must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the assigned family services worker and the child occurs where the child resides a minimum of once every sixty (60) days. (7-1-24)

**b.** The ~~D~~department will ~~have strategies in place to detect~~ assess for possible abuse, neglect, or abandonment of children in alternate care. ~~(3-15-22)~~( )

**c.** Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-15-22)

**0~~6~~5. Discharge Planning**. Planning for discharge from alternate care are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

07~~7~~6. **Transition Planning**. Planning for discharge from alternate care into a permanent placement are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

08~~8~~7. **Financial and Support Services**. As part of the discharge planning, Departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. (3-15-22)

**406. -- 421. (RESERVED)**

**422. ALTERNATE CARE PLANNING.**
The elements of alternate care planning for the family and the child are mandated by the provisions of ~~Title IV-E,~~ Sections 471(a)(16), 475(1), and 475(5)(A) and (D) of the Social Security Act and Section 16-1621, Idaho Code. ~~(3-15-22)~~( )

~~**01. Alternate Care Plan Required**. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (3-15-22)~~

~~**a.** The purpose of the alternate care plan is to facilitate the safe return of the child to their own home as expeditiously as possible or to make other permanent arrangements for the child if such return is not feasible. (3-15-22)~~

~~**b.** The alternate care plan must be included as part of the family service plan. (3-15-22)~~

~~**02. Written Alternate Care Plan**. The Department must complete a written alternate care plan within thirty (30) days after a child has been placed in alternate care and at least every six (6) months thereafter. A copy of the alternate care plan will be provided to the child's parent, legal guardian, foster parent, Indian custodian, tribe, and to the child if they are over twelve (12) years of age. (3-15-22)~~

**423. -- 424. (RESERVED)**

**ELIGIBILITY AND FUNDING INFORMATION**
**(Sections 425-441)**

**425. TITLE IV-E ELIGIBILITY.**
The state will claim Title IV-E funding for ~~a foster child who meets the following criteria:~~ foster care placement costs as allowed within the Social Security Act, sections 421, 422, 423, 424, 428, 471, 472, 473, 474, and section 475 (Effective February 9, 2018). Claims for Title IV-E maintenance may begin as early as the first day of placement in the month in which all initial Title IV-E eligibility factors are met. ~~(3-15-22)~~( )

~~**01. Physical or Constructive Removal of the Child**. The child was physically or constructively removed from the home: (3-15-22)~~

~~**a.** Under a voluntary placement agreement; or (3-15-22)~~

~~**b.** As the result of a judicial determination that: (3-15-22)~~

~~i. Remaining in the home would be contrary to the child's welfare; or (3-15-22)~~

~~ii. Placement in foster care would be in the best interest of the child. (3-15-22)~~

~~**c.** The determination that a situation is contrary to the child's welfare must be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. (3-15-22)~~

~~**02. Child's Residence**. The child has been living in the home of a parent or other relative specified at 45 CFR 233.90(c)(1)(v) either in the month of, or within six (6) months prior to the month: (3-15-22)~~

~~a. Removal court proceedings were initiated; or (3-15-22)~~

~~b. The voluntary placement agreement was signed. (3-15-22)~~

~~03. AFDC Eligibility. The child was AFDC (Aid to Families with Dependent Children) eligible in the removal home during the month of the initiation of court proceedings that initiated the removal or the month the voluntary placement agreement is signed. AFDC eligibility is based upon the standards found in the State's IV-A Plan on July 16, 1996. (3-15-22)~~

~~04. "Removal From" and "Living With" Requirements. The "removal from" (01. of this rule) and "living with" (Subsection 425.02. of this rule) requirements must be satisfied by the same specified relative who meets AFDC eligibility (Subsection 425.03. of this rule). (3-15-22)~~

~~05. Judicial Determination. A judicial determination was obtained regarding reasonable efforts to prevent a child's removal from the home no later than sixty (60) days from the child's foster care entry date. When there is a judicial determination of "aggravated circumstances," the court order must state that no reasonable efforts to reunify the family are required. (3-15-22)~~

~~06. Agency with Placement Care and Responsibility. The IV-E agency, or another public agency or Tribe that has a plan approved under 42 U.S.C. 671 in accordance with 42 U.S.C. 679c with which the Title IV-E agency has a written agreement in effect, has placement and care responsibility. (3-15-22)~~

~~07. Child in Foster Care or Childcare Institution. The child is in a fully licensed or approved foster family home, or childcare institution, or supervised independent living situation for young adults in extended foster care. (3-15-22)~~

~~08. Compliance with Safety Requirements. Compliance with the safety requirements was documented for the prospective foster family home or childcare institution. (3-15-22)~~

~~09. Child's Age. The child is under the age of eighteen (18), or up to age twenty-one (21) if they meet the criteria under 42 U.S.C. 675(8)(B)(iv). (3-15-22)~~

~~10. Child's Citizenship Status. The child is a US citizen or qualified immigrant under Sections 403, 431, and 432 of the Personal Responsibility Work Opportunity Reconciliation Act (P.L. 104-193. (3-15-22)~~

**426. (RESERVED)**

~~**427. DETERMINATION OF ELIGIBILITY FOR TITLE IV-E.**~~
~~The family services workers must submit an application to the Child Welfare Funding Team to evaluate for Title IV-E eligibility. (3-15-22)~~

**427. (RESERVED)**

**428. CUSTODY AND PLACEMENT.**

**01. Interstate Placements**. In interstate placements, a child may be placed with an approved unlicensed relative when delaying the placement would be harmful to the child's well-being. In those cases, a subsequent request for foster care licensure will be made through the Interstate Compact on the Placement of Children. ~~However, in these instances, a child is ineligible for Title IV-E until the placement is licensed.~~
~~(3-15-22)~~( )

**02. Intrastate Placements That Become Interstate Placements**. If a foster care placement that was initially intrastate becomes an interstate placement because the family with whom the child is placed relocates to another state, a request for foster care licensure will be made through the Interstate Compact on the Placement of Children immediately upon the decision to move the child. ~~If the state to which the family has moved accepts the family's Idaho foster care license as effective, the placement is considered licensed until a determination is made that the family is in compliance with the licensing and other applicable laws of the state to which the family has moved.~~

~~(3-15-22)~~( )

~~429. EFFECTIVE DATE.~~
~~Claims for Title IV-E maintenance may begin as early as the first day of placement in the month in which all initial Title IV-E eligibility factors are met. A child cannot receive SSI and Title IV-E foster maintenance payments during the same time period.~~ ~~(3-15-22)~~

429. (RESERVED)

**430. ONGOING ELIGIBILITY.**
To continue eligibility for Title IV-E, ~~a child must meet the following conditions:~~ ~~(3-15-22)~~

~~01. Child's Age. The child is under the age of eighteen (18), or up to age twenty-one (21) if they meet the criteria under 42 U.S.C. 675(8)(B)(iv).~~ ~~(3-15-22)~~

~~02. Department Custody. The child remains in the Department's custody through either a current court order or a voluntary placement agreement that has not been in effect more than one hundred and eighty (180) days.~~ ~~(3-15-22)~~

~~03. Child's Residence. The child continues to live in a fully licensed or approved foster family home, or childcare institution, or on a court-ordered home visit.~~ ~~(3-15-22)~~

~~04. Redetermination. A redetermination is used for a child who:~~ ~~(3-15-22)~~

~~a. Left foster care;~~ ~~(3-15-22)~~

~~b. Was placed in a Title IV-E ineligible living situation such as: unlicensed placement, a hospital, or a detention center;~~ ~~(3-15-22)~~

~~c. Exceeded one hundred eighty (180) days in a voluntary placement agreement in which there was no judicial determination of "best interests." The child's Title IV-E eligibility ceases on the 181st day; and~~ ~~(3-15-22)~~

~~d. Is on a home visit that exceeds the time specified in the court order signed by the Judge without a new judicial determination granting an extension.~~ ~~(3-15-22)~~

~~05. Annual Redetermination.~~ the department will complete an ~~A~~annual redetermination ~~is required~~ to assure that the court has determined that the ~~D~~department has made reasonable efforts to finalize a permanency plan for the child within twelve (12) months of the date the child is considered to have entered foster care and at least once every twelve (12) months thereafter while the child is in foster care. ~~(3-15-22)~~( )

**431. (RESERVED)**

**432. ~~TITLE XIX FOSTER CHILD~~MEDICAID ELIGIBILITY FOR CHILD IN FOSTER CARE.**
For Title XIX Medicaid eligibility for a foster child, please refer to IDAPA 16.03.01, ~~"Eligibility for Health Care Assistance for Families and Children," Section 536~~. ~~(3-15-22)~~( )

**433. INCOME, BENEFITS AND SAVINGS OF CHILDREN IN FOSTER CARE.**
~~On behalf of the child and with the assistance of CWFT staff, family services workers are required to identify and apply for income or benefits from (one (1) or) every available source including Social Security, tribal benefits, or estates of deceased parents. The address of the payee must be DHW FACS-CWFT, 450 West State Street, P. O. Box 83720 Boise, ID 83720-0036~~FACS will apply for income or benefits including social security, tribal benefits, or estates of deceased parents. The payee will be DHW-FACS-CWFT. ~~(3-15-22)~~( )

**434. FORWARDING OF BENEFITS.**
Child Support Services will be notified when a child goes on a trial home visit and be provided the name and address of the responsible party to discontinue accrual of child support owed to the state. ( )

~~**01. Home Visit**. If the Department is receiving benefits and the child is returned to the home of the parent(s) or legal guardian(s) or relatives for a trial visit, Child Support Services must be notified by a family services worker giving the name and address of the person in order to discontinue accrual of child support owed to the State. (3-15-22)~~

0~~2~~1. **Return to Foster Care**. If the child returns to foster care, the Department's Child Support Unit must be notified immediately of the correct payee. (3-15-22)

**435. (RESERVED)**

**436. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.**
~~In accordance with Section 56-203B, Idaho Code, parents are responsible for costs associated with the care of their child in alternate care~~When a child enters care if there is a child support order already in effect for that child, the child support funds will be redirected to the department to contribute to the cost of the child's care. If there is no child support order already in effect, a new child support case will not automatically be opened. The department may initiate a child support case for a child in care, in its discretion, if the department concludes that doing so is in the best interest of the child. This provision does not limit the authority of the department to initiate or otherwise litigate child support on other grounds. ~~(3-15-22)~~( )

~~**01. Notice of Parental Responsibility**. The Department will provide the parents(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (3-15-22)~~

~~**02. Financial Arrangements with Parent(s)**. Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. (3-15-22)~~

~~**a.** The amount of support is based on the parents' income, the costs of care for the child, and any unique circumstances affecting the parents' ability to pay. (3-15-22)~~

~~**b.** Every parent is expected to contribute to the cost of their child's care, but no parent will be asked to pay more than the actual cost of care, including clothing, medical, incidental and educational costs. The cost of room and board must be paid by the parent(s) to the Department, and the Department will in turn reimburse the alternate care providers. (3-15-22)~~

**437. ACCOUNTING AND REPORTING.**
The Department's Division of Family and Community Services, Child Welfare Funding Team must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. (3-15-22)

**438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.**
If the placement is voluntary, the parent(s) must sign an agreement that specifies the amount of support to be paid, when it is to be paid to the payee, and the address to which it is to be paid. (3-15-22)

~~**439. SUPPORT IN COURT-ORDERED PLACEMENT.**~~
~~In the case of a court-ordered placement, if no support agreement has been reached with the parent(s) prior to the custody or commitment hearing, the Department's report to the Court will indicate the necessity to hold a support hearing. (3-15-22)~~

**439. (RESERVED)**

**440. INSURANCE COVERAGE.**
The parent(s) or legal guardian(s) must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage are available for the child, the parent(s) must acquire and maintain such insurance. (3-15-22)

**441. REFERRAL TO CHILD SUPPORT SERVICES.**

The Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements. (3-15-22)

**01. Assignment of Child Support**. The Department through the Bureau of Child Support Services will secure assignment of any support due to the child while in alternate care. Social Security and Supplemental Security Income benefits are specifically aimed at meeting the child's needs and therefore will follow the child in placement and the Department must request to be named payee for all funds for placements extending over thirty (30) days. (3-15-22)

**02. Collection of Child Support**. The Department must take action to collect any child support ordered in a divorce or custody decree. ~~(3-15-22)~~( )

**MEDICAL AND DENTAL FOR CHILDREN IN OUT-OF-HOME CARE**
**(Sections 442-479)**

**442. MEDICAID FOR CHILDREN IN ALTERNATE CARE.**
Every child placed in alternate care will receive a medical card each month. (3-15-22)

**443. EPSDT SCREENING.**
Children in alternate care will receive the Early Periodic Screening, Diagnosis and Treatment (EPSDT) services allowable under Medicaid. Those children already receiving Medicaid at the time of placement will be screened within thirty (30) days after placement. Children not receiving Medicaid at the time of placement will receive a screening within thirty (30) days from the date Medicaid eligibility is established. (3-15-22)

**444. MEDICAL EMERGENCIES.**
In case of serious illness, the alternate care provider must notify the child's doctor and the Department immediately. The parent(s) or legal guardian(s) or the court in an emergency, or the Department if it is the guardian of the child, have the authority to consent to major medical care or hospitalization. (3-15-22)

**445. DENTAL CARE.**
Each child age three (3) who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (3-15-22)

**01. Costs Paid by Medicaid**. If dental care not included in the state medical assistance program is recommended, a request for payment must be submitted to the state Medicaid dental ~~consultant~~ contractor. ~~(3-15-22)~~( )

**02. Emergencies**. For children in shelter care, emergency dental services will be provided for and paid for by the Department, if there are no other financial resources available. (3-15-22)

**446. COSTS OF PRESCRIPTION DRUGS.**
The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacists, in excess of the Medicaid monthly maximum. (3-15-22)

**447. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.**
Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (3-15-22)

**448. -- 450. (RESERVED)**

**451. DRIVERS' TRAINING, DRIVERS' LICENSES, AND PERMITS FOR CHILDREN IN ALTERNATE CARE.**
No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without written authorization from the Child and Family Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the Child and Family Services

Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. (3-15-22)

**01. Payments by Department**. Subject to existing appropriations, the Department may make payments for driver's training, driver's license, and permits for a child in the Department's legal custody when driver's training or obtaining a driver's license or permit is part of the child's Independent Living Plan. In addition, subject to existing appropriations, the Department may reimburse a foster parent, licensed by the Department, for the cost of procuring owner's or operator's insurance listing a child residing in their home as a named insured with respect to the operation of a motor vehicle subject to the limits exclusive of interest and costs with respect to each motor vehicle as provided in Section 49-117, Idaho Code. (3-15-22)

**02. Payment by Parent(s) or Legal Guardian(s)**. The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (3-15-22)

**452. -- 479. (RESERVED)**

## LICENSURE AND REIMBURSEMENT OF ALTERNATE CARE PROVIDERS (Sections 480-549)

**480. ALTERNATE CARE LICENSURE.**
All private homes and facilities providing care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "~~Child~~Foster Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed or approved by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. ~~(3-15-22)~~( )

**481. FACILITIES OPERATED BY THE STATE.**
Facilities operated by the State and providing care for children under these rules must meet the standards for ~~child care licensure~~ Children's Residential Care Facilities in IDAPA 16.04.18. ~~(3-15-22)~~( )

**~~482. PAYMENT FOR SHELTER CARE.~~**
~~Payment for placement of children requiring temporary, emergency alternate care is twenty dollars ($20) per day for children from birth through age seventeen (17), for a maximum of thirty (30) days of shelter care for each uninterrupted placement.~~ ~~(3-15-22)~~

**483~~2~~. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.**
~~Monthly payments for care provided by family alternate care providers are:~~The rates for alternate care providers are proposed by Child and Family Services to the Joint Finance and Appropriations Committee (JFAC) when the annual review of reimbursements rates indicates that the amount is not sufficient to support foster parents in meeting the needs of children and young adults in extended foster care. Current rates as approved by JFAC are posted on the Child and Family Services website and will include the following: ( )

~~Family Alternate Care Payments – Table 483~~

| ~~Ages~~ | ~~0-5~~ | ~~6-12~~ | ~~13-17~~ | ~~18-20~~ |
|---|---|---|---|---|
| ~~Monthly Room and Board~~ | ~~$632~~ | ~~$702~~ | ~~$759~~ | ~~$876~~ |

~~(4-6-23)~~

~~**01. Gifts**. An additional thirty dollars ($30) for Christmas gifts and twenty dollars ($20) for birthday gifts will be paid in the appropriate months.~~ ~~(3-15-22)~~

~~**02. Clothing**. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child.~~ ~~(3-15-22)~~

~~**03. School Fees**. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs.~~ ~~(3-15-22)~~

**01.** **Shelter Care**. Reimbursement rate for placement of children requiring emergency alternate care for a maximum of thirty (30) days. ( )

**02.** **Room and Board**. Reimbursement rates for placement of children in relative or non-relative foster care by age. ( )

**03.** **Additional Reimbursement**. Based upon an ongoing assessment of the child's circumstances that necessitate special rates as well as the foster parent's ability, activities, and involvement in addressing those special needs. ( )

**04.** **Gifts**. Additional payments to support gifts for children in foster care at Christmas and the child's birthday. ( )

**05.** **Crisis Level of Need**. The director or designee may approve enhanced rates for foster parents when there are insufficient foster homes available to meet the needs of children needing placement including sibling groups. ( )

**483. REIMBURSEMENT IN THE HOME OF A RELATIVE.**
Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child's care using their own financial resources. ( )

~~**484. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.**~~
~~For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the family alternate care provider an additional amount to the amount paid under Section 483 of these rules. This family alternate care rate is based upon a ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows:~~ ~~(3-15-22)~~

~~**01.** **Lowest Level of Need**. Ninety dollars ($90) per month for a child requiring a mild degree of care for documented conditions including:~~ ~~(3-15-22)~~

~~**a.** Chronic medical problems;~~ ~~(3-15-22)~~

~~**b.** Frequent, time-consuming transportation needs;~~ ~~(3-15-22)~~

~~**c.** Behaviors requiring extra supervision and control; and~~ ~~(3-15-22)~~

~~**d.** Need for preparation for independent living.~~ ~~(3-15-22)~~

~~**02.** **Moderate Level of Need**. One hundred fifty dollars ($150) per month for a child requiring a moderate degree of care for documented conditions including:~~ ~~(3-15-22)~~

~~**a.** Ongoing major medical problems;~~ ~~(3-15-22)~~

~~**b.** Behaviors that require immediate action or control; and~~ ~~(3-15-22)~~

~~**c.** Alcohol or other substance use disorder.~~ ~~(3-15-22)~~

~~**03.** **Highest Level of Need**. Two hundred forty dollars ($240) per month for a child requiring an extraordinary degree of care for documented conditions including:~~ ~~(3-15-22)~~

~~**a.** Severe emotional or behavioral disturbance;~~ ~~(3-15-22)~~

~~**b.** Severe developmental disability; and~~ ~~(3-15-22)~~

~~c. Severe physical disability such as quadriplegia.~~ ~~(3-15-22)~~

~~04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service.~~ ~~(3-15-22)~~

**484. ADDITIONAL FINANCIAL SUPPORT TO FAMILY ALTERNATE CARE PROVIDERS.**

**01. Clothing**. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. ( )

**02 School Fees**. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. ( )

**485. TREATMENT FOSTER CARE.**
A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children in the custody of the ~~D~~department under the purview of the Child Protective Act, is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical ~~judgement~~judgment of the ~~D~~department. ~~(3-15-22)~~( )

**01. Qualifications**. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-15-22)

**a.** Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, ~~"Child~~Foster Care Licensing~~"~~; ~~(3-15-22)~~( )

**b.** Complete ~~D~~department-approved treatment foster care initial training; and ~~(3-15-22)~~( )

**c.** Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-15-22)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-15-22)

ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. (3-15-22)

**02. Continuing Education**. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the ~~D~~department. ~~(3-15-22)~~( )

**03. Availability**. At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-15-22)

**04. Payment**. The ~~D~~department will pay treatment foster parents up to one thousand eight hundred ($1,800) dollars per month, per child, which includes the monthly payment rate ~~specified in Sections 483 and 484 of these rules~~ posted on the Child and Family Services website. The payment will be made to treatment foster parents in accordance with a contract with the Department. ~~The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the child's treatment plan referenced in Subsection 485.06 of this rule.~~ ~~(3-15-22)~~( )

**05. Payment to Contractors**. The ~~D~~department may also provide treatment foster care through a

contract with an agency that is a private provider of treatment foster care. The ~~D~~department will specify the rate of payment in the contract with the agency. ~~(3-15-22)~~( )

**06. Treatment Plan**. The treatment foster parent(s) must implement the portions of the ~~D~~department or Children's Agency-approved treatment plan for which they are designated as responsible, for each child in their care. ~~This plan is incorporated as part of the family services plan identified in Section 011.05 of these rules.~~
~~(3-15-22)~~( )

**486. ~~GROUP FOSTER~~ OTHER ALTERNATIVE CARE.**
~~Group f~~Foster care ~~is~~ for children who generally require more structured services and activities ~~and discipline~~ than found in a family setting. ~~Examples are intermediate residential treatment, short term group care, and emancipation homes.~~ ~~(3-15-22)~~( )

**01. Referral ~~— Group Foster Care~~**. Any referral of a child to a ~~group foster care facility~~ other alternative care setting where the ~~D~~department ~~would be making~~ will make full or partial payment must ~~be~~ have prior ~~authorized~~ authorization by the Child and Family Services Program Manager or designee. ~~(3-15-22)~~( )

**02. Placement**. ~~Placement is based on~~ Determined by the documented ~~service~~ mental, medical or behavioral health needs of each child and the ability of ~~the group care~~ other alternate care provider to meet those needs. ~~(3-15-22)~~( )

**03. Payment ~~— Group Foster Care~~**. Payment will be in accordance with the contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. ~~(3-15-22)~~( )

**~~487. RESIDENTIAL CARE FACILITIES.~~**
~~Placement into a residential care facility for children with a severe emotional or behavioral problems is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs.~~ ~~(3-15-22)~~

**~~01. Referral~~**. ~~Any referral of a child to a residential care facility where the Department would be making full or partial payment must be prior authorized by the Child Services and Family Program Manager or designee.~~ ~~(3-15-22)~~

**~~02. Payment~~**. ~~When care is purchased from private providers, payment must be made in accordance with a contract authorized by the Child Services and Family Program Manager, based on the needs of each child being placed and the services to be provided. When care is provided in facilities operated by the Department, payment will be arranged in cooperation with Department fiscal officers.~~ ~~(3-15-22)~~

**~~488. -- 491. (RESERVED)~~**

**~~492. REIMBURSEMENT IN THE HOME OF A RELATIVE.~~**
~~Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child's care using their own financial resources.~~
~~(3-15-22)~~

**493~~87~~. -- 549. (RESERVED)**

**CHILD PROTECTION SERVICES**
**(Sections 550-639)**

**~~550. CHILD PROTECTION SERVICES.~~**
~~Sections 56-204A, 56-204B, 16-1601, 16-1629 and 16-2001, Idaho Code, make the Department an official child protection agency of state government dealing with situations of reported child abuse, neglect, or abandonment. A respectful, non-judgmental approach should be the policy for assessments, especially during the initial contact with the family. Training in communication would include multicultural and diversity issues and interest based conflict resolution.~~ ~~(3-15-22)~~

~~551. REPORTING ABUSE, NEGLECT, OR ABANDONMENT.~~
~~Professionals and other persons identified in Section 16-1605, Idaho Code, have a responsibility to report abuse, neglect, or abandonment and are provided protection for reporters.~~ ~~(3-15-22)~~

~~01. Ministers. Duly ordained ministers of religion are exempt from reporting child abuse, neglect, or abandonment if:~~ ~~(3-15-22)~~

~~a. The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3);~~ ~~(3-15-22)~~

~~b. The confession or confidential communication was made directly to the duly ordained minister of religion; and~~ ~~(3-15-22)~~

~~c. The confession was made in the manner and context that places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.~~ ~~(3-15-22)~~

~~02. Health and Welfare Employees. All Department of Health and Welfare personnel are responsible for recognizing and immediately reporting to Child and Family Services or to law enforcement any concern regarding abuse, neglect, or abandonment of a child or children. Failure to report as required by Section 16-1605, Idaho Code, is a misdemeanor.~~ ~~(3-15-22)~~

**550 -- 551. (RESERVED)**

**552. REPORTING SYSTEM.**
~~Each region of t~~The ~~D~~department maintains a system for receiving and responding to reports or complaints on a twenty four (24) hour per day, seven (7) day per week basis statewide ~~throughout the entire region. The region will advertise the system to the public throughout the region and ensure the accurate recording of as many facts as possible at the time of the report~~. ~~(3-15-22)~~( )

**553. ASSIGNING REPORTS FOR SAFETY ASSESSMENT.**

**01. Child Reports**. The Department ~~must~~ will assign all reports of possible abuse, neglect, or abandonment of children for safety assessment, unless ~~the field office has knowledge or information that discredits the report beyond a reasonable doubt~~ there is insufficient information to indicate assignment is necessary.
~~(3-15-22)~~( )

**02. Infant Reports**. To ensure the protection of infants in health care facilities throughout the state and who have been in continuously hospitalized since birth, who were born extremely prematurely, or who have a long-term disability, the department will assign reports of instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions in accordance with the department's response priorities. ( )

**554. RESPONSE PRIORITIES.**
The Department ~~must~~ will use the following ~~statewide standards~~ priorities for responding to allegations of abuse, neglect, or abandonment~~, using the determination of risk to the child as the primary criterion~~. ~~Any~~ If a variance is necessary from these response ~~standards must~~ priorities, it will be documented in the family's case file with a description of action taken, and ~~must~~ will be reviewed and signed by the Child and Family Services Supervisor.
~~(3-15-22)~~( )

**01. Priority I**. The ~~D~~department ~~must~~ will respond immediately if a child is in immediate danger involving a life-threatening or emergency situation and for cases of sexual abuse when a child may have contact with the alleged perpetrator. ~~Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response.~~ Law enforcement ~~must~~ will be notified and requested to ~~respond or to accompany a family services worker~~ assist. Every attempt ~~should~~ will be made to coordinate the ~~D~~department's assessment with law enforcement's investigation. The child ~~must~~ will be seen by a ~~Department~~ family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of

six (6) or with profound developmental disabilities ~~should~~ will be considered ~~under~~ Priority I unless there is reason to believe that the child is not in immediate danger. ~~(3-15-22)~~( )

**02. Priority II**. A child is not in immediate danger but allegations of abuse, ~~including physical or sexual abuse, or serious physical or medical~~ or neglect are clearly defined in the referral~~. Law enforcement must be notified within twenty-four (24) hours~~. The child ~~must~~ will be seen by the family services worker within forty-eight hours (48) of the ~~D~~department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals ~~that involve concerns of abuse, neglect, or abandonment~~. ~~(3-15-22)~~( )

**03. Priority III**. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well-being. ~~The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse, neglect, or abandonment by parent(s) or legal guardian(s).~~ A family services worker must respond within three (3) calendar days and the child ~~must~~ will be seen by the worker within five (5) calendar days of the ~~D~~department's receipt of the referral. ~~(3-15-22)~~( )

**04. Notification of the Person Who Made the Referral**. The ~~D~~department ~~must~~ must notify the person who made the child protection referral of the receipt of the referral within five (5) days, unless notification is declined. ~~(3-15-22)~~( )

**05. Disclosure of Information to Professionals**. The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional ~~will~~ needs to know in order to fulfill their role in maintaining the child's safety and well-being. This provision applies to: ~~(3-15-22)~~( )

**a.** Physicians, residents on a hospital staff, interns, and nurses; (3-15-22)

**b.** School teachers, school staff, and day care personnel; and (3-15-22)

**c.** Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers. (3-15-22)

**555. SUPERVISORY REVIEW - CERTAIN PRIORITY I AND II CASES.**
In all Priority I and II cases where the alleged victim of abuse, neglect, or abandonment is ~~through the age of~~ six (6) years old or younger, review by a supervisor~~y~~ or team of all case documentation and ~~other~~ facts will be conducted within forty-eight (48) hours of initiation of the safety assessment. Such review will be documented in the file with the signature of the supervisor or team leader, time and date, whether additional safety-related issues will be pursued and by whom, and any planning for initiation of services. ~~(3-15-22)~~( )

**556. REPORTS INVOLVING INDIAN CHILDREN.**
Possible abuse, neglect, or abandonment of a child who is known or believed to be Indian will be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the ~~D~~department will perform the investigation. The ~~D~~department will also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response will be maintained in the case record and written documentation will be provided to the appropriate tribal authorities. ~~(3-15-22)~~( )

**557. REPORTS INVOLVING MILITARY FAMILIES.**
~~Reports of possible child abuse, neglect, or abandonment involving a military family must be reported in accordance with the provisions of any agreement with the appropriate military family advocacy representative, in accordance with the provisions of Section 811 of Public Law 99-145. Child abuse, neglect, or abandonment of a child on a military reservation falls under federal jurisdiction~~The department will comply with notice requirements pertaining to child abuse or neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member) as required by 10 USC 1787. ~~(3-15-22)~~( )

~~**558. COMMUNITY RESOURCES.**~~
~~The Department will provide information and referral to community resources or may offer preventative services to~~

~~the family. Information and referral services enable individuals to gain access to human services through providing accurate, current information on community and Department resources.~~ ~~(3-15-22)~~

**558. (RESERVED)**

**559. CHILD PROTECTION SAFETY AND COMPREHENSIVE ASSESSMENTS.**
The ~~D~~department's safety and comprehensive assessments ~~must~~ will be conducted in a standardized format and utilize statewide assessment and multi-disciplinary team protocols. ~~The assessment must include contact with the child(ren) involved and the immediate family and a records check for history with respect to child protection issues.~~ ~~(3-15-22)~~( )

**01. Assessment of a Child**. The family services worker ~~must make~~ will complete an assessment of every child of concern. When the child is interviewed as part of a safety and comprehensive assessment, the interview of a child concerning a child protection report ~~must~~ will be conducted: ~~(3-15-22)~~( )

**a.** In a manner that protects all children involved from undergoing any unnecessary traumatic experience~~, including multiple interviews~~; ~~(3-15-22)~~( )

**b.** By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-15-22)

**c.** In a neutral, non-threatening environment, ~~such as a specially equipped interview room,~~ if available. ~~(3-15-22)~~( )

**02. Assessment of the Family**. The family services worker conducting the interview ~~must~~ will: ~~(3-15-22)~~( )

**a.** Immediately notify the parent(s) or legal guardian(s) of the purpose and nature of the assessment. (3-15-22)

**b.** Provide at the initial contact the name and work phone numbers of the family services worker and their supervisor to ensure the family has a contact for questions and concerns that may arise following the visit; (3-15-22)

**c.** Inquire if the family is Indian, or has Indian heritage, for the purposes of ICWA; (3-15-22)

**d.** Interview siblings who are identified as being at risk; and (3-15-22)

**e.** Not divulge the name of the person making the report of child abuse or neglect. (3-15-22)

**03. Collateral Interviews**. Any assessment of an abuse or neglect report ~~must~~ will include at ~~least~~ minimum one (1) collateral interview with a person who is familiar with the circumstances of the child(ren) ~~or children~~ involved. Collateral interviews will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. ~~(3-15-22)~~( )

**04. Completion of a Comprehensive Assessment**. A Safety Assessment will be completed on each referral assigned for assessment of abuse or neglect, or both. When safety threats are identified in the safety assessment and the case remains open for services~~, a comprehensive assessment must be completed~~. ~~(3-15-22)~~( )

~~**05. Role of Law Enforcement**. Section 16-1617, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the safety assessment for which they have the expertise and responsibility and consistent with the relevant multidisciplinary team protocol. Such areas include:~~ ~~(3-15-22)~~

~~**a.** Interviewing the alleged perpetrator;~~ ~~(3-15-22)~~

~~**b.** Removing the alleged perpetrator from the child's home in accordance with Section 16-1608(b), Idaho Code, the "Domestic Violence Act"; and~~ ~~(3-15-22)~~

~~e. Taking a child into custody in accordance with Section 16-1608, Idaho Code, where a child is endangered and prompt removal from their surroundings is necessary to prevent serious physical or mental injury.~~ ~~(3-15-22)~~

0~~6~~5. **Notification of the Person Who Made the Referral**. The ~~D~~department must notify the person who made the child protection referral when the safety assessment has been completed. ~~(3-15-22)~~( )

**560. DISPOSITION OF CHILD PROTECTION REPORTS.**
Within five (5) days following completion of safety assessments, the ~~D~~department will determine whether the reports are substantiated or unsubstantiated. All persons who are ~~the subject of a child protection safety assessment~~ identified as a caretaker will be notified of the disposition of the assessment as it pertains to them. ~~(3-15-22)~~( )

**01. Substantiated**. Child abuse, neglect, or abandonment reports are substantiated by one (1) or more of the following: (3-15-22)

**a.** Witnessed by a family services worker, as defined in Section 011 of these rules; (3-15-22)

**b.** A court determines, in an adjudicatory hearing, that a child comes within the jurisdiction of ~~the Child Protective Act,~~ Title 16, Chapter 16, Idaho Code; ~~(3-15-22)~~( )

**c.** A confession by the alleged offender; ~~(3-15-22)~~( )

**d.** Corroborated by physical or medical evidence; or (3-15-22)

**e.** Established by evidence that it is more likely than not that abuse, neglect, or abandonment occurred. (3-15-22)

**02. Unsubstantiated**. Child abuse, neglect, or abandonment reports are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule~~. For intradepartmental statistical purposes, the Department will indicate whether the unsubstantiated disposition of the safety assessment was~~ due to: ~~(3-15-22)~~( )

**a.** Insufficient evidence; or (3-15-22)

**b.** An erroneous report. (3-15-22)

**561. CHILD PROTECTION CENTRAL REGISTRY.**
~~The Adam Walsh Child Protection and Safety Act of 2006,~~In compliance with P.L. 109-248, July 27, 2006, ~~120 Stat. 587, has directed the states to establish a central registry for the purpose of sharing information about persons who have substantiated reports of abuse, neglect, or abandonment against children. T~~ the Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. ~~The primary purpose of the Child Protection Central Registry is to aid the Department in protecting children and vulnerable adults from individuals who have previously abused, neglected, or abandoned children. The Child Protection Central Registry maintained by the Department is separate and apart from the central registry for convicted sexual offenders maintained by the Idaho State Police under Title 18, Chapter 83, Idaho Code.~~ The Child Protection Central Registry provisions in this chapter of rules apply to safety assessments conducted by the ~~D~~department after October 1, 2007. ~~(3-15-22)~~( )

**562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.**

**01. Confidentiality of Child Protection Central Registry**. The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual on whom a criminal history and background check is being conducted, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. (3-15-22)

**02. Child Protection Central Registry Check Fee**. The fee for requesting a name-based check of the

Child Protection Central Registry is twenty ($20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. (3-15-22)

**563. LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.**
When an incident of abuse, neglect, or abandonment has been substantiated, a level of risk is assigned to the incident. ~~The level of risk is determined by the severity and type of the abuse, neglect, or abandonment and the potential risk of future harm to a child. The highest level of risk is designated as Level One and the lowest level of risk is Level Three.~~ ~~(3-15-22)~~( )

**01. Child Protection Level One**. ~~An individual with a Level One designation has been determined to pose a high to severe risk to children.~~ Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. ~~(3-15-22)~~( )

**a.** Sexual Abuse as defined in Sections 16-1602(1)(b) ~~and~~ or 18-1506, Idaho Code; ~~(3-15-22)~~( )

**b.** Sexual Exploitation as defined in Sections 18-1507 ~~and~~ or 18-1507A, Idaho Code; ~~(3-15-22)~~( )

**c.** ~~Physical a~~Abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; ~~(3-15-22)~~( )

**d.** Neglect as described in Section 16-1602(31), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**e.** Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

**f.** Death of a child as a result of abuse, neglect, or abandonment; ~~(3-15-22)~~( )

**g.** Torture of a child as described in Section 18-4001, Idaho Code; (3-15-22)

**h.** Aggravated Circumstances as described in Section 16-1602(6), Idaho Code; or (3-15-22)

**i.** Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, ~~each of which falls under the circumstances~~ listed under Subsection 563.02 of this rule. ~~(3-15-22)~~( )

**02. Child Protection Level Two**. An individual with a Level Two designation ~~has been determined to pose a medium to high risk to children and~~ will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten-year (10) period, an individual may petition the ~~D~~department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will be given the designation of Level Two. ~~(3-15-22)~~( )

**a.** Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (3-15-22)

**b.** Administering or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; (3-15-22)

**c.** Child exposed to: (3-15-22)

i. Drug paraphernalia, as defined in Section 37-2701(~~n~~o), Idaho Code; ~~(3-15-22)~~( )

ii. Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(~~s~~t), Idaho Code; or ~~(3-15-22)~~( )

iii. Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (3-15-22)

~~d. Failure to thrive caused by abuse, neglect, or abandonment, as established by medical evidence; (3-15-22)~~

~~e~~d. ~~Physical a~~Abuse as described in Section 16-1602(1)(a), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but requires medical treatment as recommended by a medical provider; ( )

e. ~~a~~Abandonment as described in Section 16-1602(2), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but requires medical treatment as recommended by a medical provider: ( )

f. ~~or n~~Neglect as described in Section 16-1602(31), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but ~~may require medical or other treatment~~ requires medical treatment as recommended by a medical professional; ~~(3-15-22)~~( )

~~f~~g. The restraint or confinement of a child that poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

~~g~~h. Medical neglect as described in Section 16-1602(31), Idaho Code, that poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

~~h~~i. Malnutrition as established by medical evidence; or (3-15-22)

~~i~~j. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, ~~each of which falls under the circumstances~~ listed under Subsection 563.03 of this rule. ~~(3-15-22)~~( )

**03. Child Protection Level Three**. An individual with a Level Three designation ~~has been determined to pose a mild to medium risk of harm to the health, safety, or well-being of a child. The name of that individual~~ will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the ~~D~~department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. ~~(3-15-22)~~( )

**a.** Lack of supervision; (3-15-22)

**b.** Failure to protect from abuse, neglect, or abandonment as described in Section 16-1602, Idaho Code; (3-15-22)

**c.** Failure to discharge parental responsibilities described under Section 16-1602(31)(b), Idaho Code; ~~or~~ ~~(3-15-22)~~( )

**d.** ~~Physical a~~Abuse as described in Section 16-1602(1)(a), Idaho Code, that causes minor injuries or damage that does not require medical treatment; ( )

e. ~~or n~~Neglect as described in Section 16-1602(31), Idaho Code, that causes minor injuries or damage that does not require medical treatment. ~~(3-15-22)~~( )

**564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.**

**01. Notification of Substantiated Incident**. Prior to placement on the Child Protection Central Registry, the ~~D~~department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review under the requirements in IDAPA 16.05.03,

"Contested Case Proceedings and Declaratory Rulings." The Department's written notice will state: ~~(3-15-22)~~( )

**a.** The risk level assigned to the incident; (3-15-22)

**b.** The basis for the ~~D~~department's decision; ~~(3-15-22)~~( )

**c.** The individual's right to request an administrative review by the ~~D~~department's Family and Community Services (FACS) Division Administrator of the ~~D~~department's decision; and ~~(3-15-22)~~( )

**d.** The ~~D~~department's contact information. ~~(3-15-22)~~( )

**02. Administrative Review Not Requested**. If the individual does not request an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, their name will automatically be entered on the Child Protection Central Registry without further notice or right for appeal. (3-15-22)

**03. Administrative Review Requested**. If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail. (3-15-22)

**04. Reversal of Decision to Substantiate**. When the FACS Division Administrator completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, ~~and determines that the incident is not substantiated,~~ then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry. ~~(3-15-22)~~( )

**05. Contested Case Appeal**. When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that their name has been placed on the Child Protection Central Registry and informed of: (3-15-22)

**a.** The basis for the ~~D~~department's decision; ~~(3-15-22)~~( )

**b.** The procedures for filing a contested case appeal under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 101; (3-15-22)

**c.** The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; and ~~(3-15-22)~~( )

**d.** The ~~D~~department's contact information. ~~(3-15-22)~~( )

**565. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME ON THE CHILD PROTECTION CENTRAL REGISTRY PRIOR TO OCTOBER 1, 2007.**
After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have their name removed from the registry in accordance with Subsection 566.01 of these rules. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to determine if it meets the requirements for removal. ~~(3-15-22)~~( )

**566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.**
Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. (3-15-22)

**01. Petition for Removal From the Child Protection Central Registry**. Any individual whose name

appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner to the ~~D~~department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. ~~(3-15-22)~~( )

**02. Criteria for Granting Petition for Removal From the Child Protection Central Registry**. The petition for removal from the Child Protection Central Registry will be granted if: (3-15-22)

**a.** There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho; and (3-15-22)

**b.** There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: (3-15-22)

i. On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or (3-15-22)

ii. On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. (3-15-22)

**03. Criminal History Checks**. It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the ~~D~~department. ~~(3-15-22)~~( )

~~**a.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition:~~ ~~(3-15-22)~~

~~i. Physical Assault;~~ ~~(3-15-22)~~

~~ii. Battery; or~~ ~~(3-15-22)~~

~~iii. A drug-related offense.~~ ~~(3-15-22)~~

~~**b.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following:~~ ~~(3-15-22)~~

~~i. Child abuse or neglect;~~ ~~(3-15-22)~~

~~ii. Spousal abuse;~~ ~~(3-15-22)~~

~~iii. A crime against children, including child pornography; or~~ ~~(3-15-22)~~

~~iv. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.~~ ~~(3-15-22)~~

**a.** The department will not remove a petitioner from the Child Protection Central Registry when the petitioner's criminal history and background check reveals a conviction for a disqualifying crime under IDAPA 16.05.06, "Criminal History & Background Checks", Section 210, except the department may remove a petitioner from the Child Protection Central Registry where the conviction arose from the same events for which the person was placed on the registry. ( )

**04. Granting or Denying Removal From the Child Protection Central Registry**. The ~~D~~department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. ~~(3-15-22)~~( )

**05. Appeal of a Denial of Removal From the Child Protection Central Registry**. The individual

may appeal the denial of removal of their name from the Child Protection Central Registry ~~under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Ruling," Section 101~~. ~~(3-15-22)~~( )

**567. "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.**
No disposition will be made on the parent(s) and no information will be entered into the Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Title 39, Chapter 82, Idaho Code~~, Idaho Safe Haven Act~~. ~~(3-15-22)~~( )

**568. COURT-ORDERED CHILD PROTECTION SAFETY ASSESSMENT.**
When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/safety assessment be conducted by the ~~D~~department. Court orders for preliminary child protective safety assessment and for any subsequent assessment the court may deem necessary will be served on the ~~D~~department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the safety assessment and consult with the court promptly if there are any obstacles preventing its completion. Immediately upon completing the report, the ~~D~~department must make a written report to the court. ~~(3-15-22)~~( )

**569. PETITION UNDER THE CHILD PROTECTIVE ACT.**
If any incident of child abuse, neglect, or abandonment is substantiated through a safety ~~or comprehensive~~ assessment, ~~or both,~~ or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the ~~D~~department will request the prosecuting attorney to file a Child Protective Act petition. ~~(3-15-22)~~( )

~~**570. COOPERATION WITH LAW ENFORCEMENT.**~~
~~The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings.~~ ~~(3-15-22)~~

**570. (RESERVED)**

**571. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.**
Where no other community resources are available and when ordered by the district courts, the ~~D~~department will, for a fee of thirty-five dollars ($35) per hour, conduct safety ~~and comprehensive~~ assessments ~~and provide social information to assist the court in child custody actions,~~ that will provide information to assist the court ~~to determine the most therapeutic placement for the child~~. ~~(3-15-22)~~( )

**01. Requests From Private Attorney**. If a parent's attorney requests a safety ~~or comprehensive~~ assessment, ~~or both,~~ and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. ~~(3-15-22)~~( )

**02. Conduct of the Assessment**. In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the ~~D~~department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. ~~(3-15-22)~~( )

**03. Report to Court**. The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the ~~D~~department's ~~format for the assessment of need~~ standardized format. The report must describe what was observed about the home conditions and the care of the child(ren).
~~(3-15-22)~~( )

**04. Department Clients**. If the family is or has been a client of the Department, disclosure of information must comply with IDAPA 16.05.01, "Use and Disclosure of ~~D~~department Records." ~~(3-15-22)~~( )

**5~~72~~68. -- 699. (RESERVED)**

## ADOPTION SERVICES
## (Sections 700-710)

### 700. ADOPTION SERVICES POLICY.

Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parent(s), the ~~D~~department will consider whether termination of parental rights is in the best interests of the child. The ~~D~~department must make every effort to place any child legally free for adoption in an appropriate adoptive home. Each child will be placed with an adoptive family who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience. ~~(3-15-22)~~( )

### 701. SERVICES TO BE PROVIDED IN ADOPTIONS.

In addition to the ~~core~~ services provided under these rules, the ~~D~~department ~~must assure provision of~~ provides the following: ~~(3-15-22)~~( )

~~**01. Response to Inquiries**. Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. (3-15-22)~~

0~~2~~1. **Pre-Placement Child/Family Assessment**. An assessment of the child's ~~family of origin~~ history, needs as an individual and as part of a family~~, and completion of a life story book for each child preparing for adoptive placement~~. ~~(3-15-22)~~( )

~~**03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions**. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-15-22)~~

~~**04. (Pre-Placement) Home Study**. An adoptive home study to ensure selection of an appropriate adoptive home. (3-15-22)~~

0~~5~~2. **Preparation for Placement**. ~~Preparation of the child by an assigned family services worker who will assist~~ Assistance to the child in addressing ~~anticipated~~ grief and loss due to separation from their parents and ~~assisting the child~~ with the transition ~~into~~ to an adoptive ~~home~~ placement. ~~(7-1-24)~~( )

0~~6~~3. **Technical Assistance**. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-15-22)

~~**07. Adoption Assistance**. A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of their adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-15-22)~~

~~**08. Period of Support Supervision**. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months. (3-15-22)~~

0~~9~~4. **Post Adoption Services**. ~~Services after an adoption is final~~ Post adoption services are provided within available resources. Children with negotiated adoption assistance agreements~~, whether~~ from ~~Idaho or from another~~ any state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with ~~either~~ IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state ~~will~~ serves as ~~a~~ formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." ~~(3-15-22)~~( )

**702. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.**
The following conditions must be met for a child to be eligible for federally-funded or state-funded guardianship assistance. (3-15-22)

**01. Assessment of Suitability**. The Department or its contractor will determine the suitability of an individual to become a legal guardian for a specific child or sibling group through a guardianship study. (3-15-22)

**02. Eligibility for Guardianship Assistance**. The Department will determine eligibility for guardianship assistance for each child placed in the legal custody of the Department prior to the finalization of the guardianship. The child will first be considered for eligibility for a federally funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will then be considered for a state-funded subsidy.(3-15-22)

**03. Guardianship and Foster Care Licensure**. To receive guardianship assistance, a potential legal guardian must apply for and receive a foster care license. (3-15-22)

**04. Guardianship Assistance Agreements and Payments**. The Department and the prospective legal guardian must enter into a written agreement prior to the finalization of the guardianship. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Eligibility for guardianship assistance is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The Department will provide the prospective legal guardian with a copy of the agreement. All Guardianship Assistance Agreements must contain the following: (3-15-22)

**a.** The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; (3-15-22)

**b.** The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; (3-15-22)

**c.** Any additional services and assistance for which the child and legal guardian will be eligible under the agreement; (3-15-22)

**d.** The procedure by which the legal guardian may apply for additional services; (3-15-22)

**e.** A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; (3-15-22)

**f.** The procedure by which the Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and (3-15-22)

**g.** Guardianship assistance payments are prospective only. There will be no retroactive benefits or payments. (3-15-22)

**h.** In Title IV-E Relative Guardianship Assistance Agreements, the prospective relative guardian may identify a successor legal guardian to be appointed guardianship of the child due to the death or incapacitation of the relative legal guardian. (3-15-22)

**05. Termination of Guardianship Assistance**. Federally-funded or state-funded guardianship assistance benefits and cash payments are automatically terminated when: (3-15-22)

**a.** A court terminates the legal guardianship or removes the legal guardian; (3-15-22)

**b.** The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; (3-15-22)

**c.** The child has reached the age of eighteen (18) years if the guardianship was finalized prior to the

child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, regardless of the child's educational status or physical or developmental delays; or (3-15-22)

**d.** The child marries, dies, or enters the military. (3-15-22)

**e.** Title IV-E relative guardianship assistance benefits do not end upon the death or incapacitation of the relative legal guardian if the relative legal guardian identified a successor legal guardian in the child's Title IV-E Relative Guardianship Assistance Agreement and the successor legal guardian assumes legal responsibility for the child. (3-15-22)

**06. Administrative Review for Guardianship Assistance**. The prospective legal guardian has twenty-eight (28) days from the date of the Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The Department will notify the individual, by mail, of the FACS Division Administrator's decision, of their right to appeal, and procedures for filing an appeal according to requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-15-22)

**703. FEDERALLY FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENTS, AND BENEFITS.**
In addition to Section 702 of these rules, the following requirements and benefits are applicable to a federally funded guardianship assistance for an eligible child and a relative guardian. (3-15-22)

**01. Eligibility**. A child is eligible for a federally funded guardianship if the Department determines the child meets the following: (3-15-22)

**a.** Is fourteen (14) years of age, or older, sometime during the consecutive six- (6) month residence with the prospective relative legal guardian as specified in Subsection 703.01.c. of this rule; (3-15-22)

**b.** Has been removed from their home under a voluntary placement agreement, or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; (3-15-22)

**c.** Being returned home or adopted are not appropriate permanency options for the child; (3-15-22)

**d.** Has been eligible for Title IV-E foster care maintenance payments during at least six (6) consecutive months during which the child resided in the home of the prospective relative legal guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While it is not required that Title IV-E foster care maintenance payments have been paid on behalf of the child during the six-month timeframe, it is required the child meet all Title IV-E foster care maintenance payment eligibility criteria in the home of the fully licensed or approved relative foster parent for a consecutive six- (6) month period to be eligible for Title IV-E guardianship assistance payment with that prospective relative legal guardian; (3-15-22)

**e.** Has been consulted regarding the legal guardianship arrangement; and (3-15-22)

**f.** Has demonstrated a strong attachment to the prospective relative legal guardian, and the relative legal guardian has a strong commitment to caring permanently for the child. (3-15-22)

**g.** When a successor legal guardian has been named in the child's most recent Title IV-E Relative Guardianship Assistance Agreement, the child remains eligible for guardianship assistance benefits upon the death or incapacitation of the relative legal guardian with any cash assistance paid to the successor legal guardian. (3-15-22)

**02. Siblings of an Eligible Child**. (3-15-22)

**a.** The Department may make guardianship assistance payments in accordance with a guardianship assistance agreement on behalf of each sibling of an eligible child, under the age of twenty-one (21), who is placed with the same relative under the same legal guardianship arrangement if the Department and the relative legal guardian agree that the placement is appropriate. (3-15-22)

**b.** Nonrecurring expenses associated with obtaining legal guardianship of the eligible child's siblings are available to the extent the total cost does not exceed two thousand dollars ($2,000). (3-15-22)

**c.** The agency is not required to place siblings with the relative legal guardian of the child at the same time with the eligible child for the siblings to qualify for a cash payment. (3-15-22)

**d.** A sibling of the eligible child does not have to meet the eligibility criteria for the relative legal guardian to receive a guardianship assistance payment or for the relative legal guardian to receive nonrecurring expenses. (3-15-22)

**03. Medicaid**. A child who is eligible for federally funded relative guardianship assistance is eligible for Title XIX Medicaid in the state where the child resides. (3-15-22)

**04. Case Plan Requirements**. A child who is eligible for federally funded relative guardianship assistance must have a case plan that includes: (3-15-22)

**a.** How the child meets the eligibility requirements; (3-15-22)

**b.** Steps the agency has taken to determine that return to the home or adoption is not appropriate; (3-15-22)

**c.** The efforts the agency has made to discuss adoption with the child's relative foster parent and the reason why adoption is not an option; (3-15-22)

**d.** The efforts the agency has made to discuss the legal guardianship and the guardianship assistance with the child's parent or parents, or the reason the efforts were not made; (3-15-22)

**e.** The reason why a permanent placement with a prospective relative legal guardian and receipt of a guardianship assistance payment is in the child's best interests; and (3-15-22)

**f.** If the child is not placed with siblings, a statement as to why the child is separated from their siblings. (3-15-22)

**05. Criminal History and Background Checks**. To be eligible for a federally funded guardianship assistance payment, all prospective legal guardians and other adult members of the household must receive a criminal history and background check clearance, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." As a licensed foster parent, if the prospective relative legal guardian has already received a clearance, another check is not necessary. (3-15-22)

**06. Nonrecurring Expenses**. The Department will reimburse the cost, up to two thousand dollars ($2,000), of nonrecurring expenses associated with obtaining a federally funded legal guardianship for an eligible child. (3-15-22)

## 704. STATE FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENT, AND BENEFITS.

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a state-funded guardianship assistance for an eligible child and their legal guardian. (3-15-22)

**01. Eligibility for State Funded Guardianship Assistance**. A child is eligible for a state-funded guardianship assistance if the Department determines the child meets the following: (3-15-22)

**a.** Assistance is based on the child's identified needs; (3-15-22)

**b.** The child's parents have had their parental rights legally terminated; and (3-15-22)

**c.** There is documentation of unsuccessful efforts to place the child for adoption. (3-15-22)

~~02. Limitations on State-Funded Guardianship Assistance.~~ ~~State-funded guardianship assistance is subject to state appropriations and availability of state general funds.~~ ~~(3-15-22)~~

~~03. Medicaid Benefits Under State-Funded Guardianship Assistance.~~ ~~State-funded guardianship assistance may include Medicaid benefits for the child(ren) receiving payment. These Medicaid benefits may only be used in Idaho. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child(ren) in the new state of residency.~~ ~~(3-15-22)~~

~~04. Nonrecurring Expenses.~~ ~~In cases where state-funded guardianship assistance is being considered, if the potential legal guardian is not able to afford the attorney and court costs to obtain legal guardianship of a child in the legal custody of the Department of Health and Welfare, financial assistance may be available from the Department. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence.~~ ~~(3-15-22)~~

**705~~2~~. -- 709. (RESERVED)**

**710. FAMILY HISTORY.**
If the ~~family case plan~~ child's permanency goal is termination of parental rights and adoption ~~is considered a part of the total planning for the child~~, the following information will be obtained and placed in the child's permanent adoption record: ~~(3-15-22)~~( )

**01. Informational Forms**. ~~Informational b~~ Background forms regarding the birth mother, birth father, and ~~the~~ child including demographic, medical, social, and genetic information. ~~(3-15-22)~~( )

**02. Hospital Records**. ~~Hospital~~ Child's birth records ~~on child~~. ~~(3-15-22)~~( )

**03. Evaluations/Assessments**. ~~Evaluations/Assessments previously~~ Any evaluations and assessments completed on child. ~~(3-15-22)~~( )

**04. Current Picture**. Current picture of child. (3-15-22)

**05. Narrative Social History**. ~~Child and family's narrative s~~ Social history that addresses: ~~(3-15-22)~~( )

**a.** Family dynamics and history; (3-15-22)

**b.** Child's current functioning and behaviors; (3-15-22)

**c.** Interests, talents, abilities, strengths; (3-15-22)

**d.** Child's cultural and racial identity needs. ~~The ability to meet the cultural and racial needs of the child does not necessitate a family have the same culture or race as the child;~~ ~~(3-15-22)~~( )

**e.** Child's ~~L~~life story, including placement moves~~,~~ and reasons~~, key people~~; ~~(3-15-22)~~( )

**f.** Child's attachments to current caretakers, siblings and other significant ~~others; i.e., special friends, teachers, etc.~~ connections; ~~(3-15-22)~~( )

**g.** Medical, developmental and educational needs; (3-15-22)

**h.** Child's ~~history,~~ past experiences, and ~~previous~~ trauma; ~~(3-15-22)~~( )

**i.** ~~Membership~~Indian child's ancestry including membership or eligibility for membership in, and social and cultural ~~contacts with~~ connections to the parent's tribe~~, if any~~, including names and addresses of extended family; ~~(3-15-22)~~( )

~~**j.** Indian child's Indian ancestry;~~ ~~(3-15-22)~~

~~k~~j. Individualized recommendations regarding each child's need for permanency; and (3-15-22)

~~l~~k. Reasons for requesting termination of parental rights. (3-15-22)

**TERMINATION OF PARENT-CHILD RELATIONSHIP**
**(Sections 711-749)**

~~**711. DECISION AND APPROVAL PROCESS FOR TERMINATION OF PARENT AND CHILD RELATIONSHIP (TPR).**~~
~~Any recommendation to the Child and Family Services Program Manager regarding the termination of parental rights will be based on the outcome of a team decision-making process and must receive written approval by the program manager before a petition may be filed.~~ ~~(3-15-22)~~

**712~~.~~1. -- 713. (RESERVED)**

**714. VOLUNTARY TERMINATION.**
~~The Department becomes involved in voluntary terminations when a parent(s) requests the Department to place their special needs child or children for adoption and when voluntary termination is a goal in the family case plan.~~ Parent(s) requesting placement of a ~~potentially healthy unborn or healthy~~ newborn child ~~should be~~ are referred to ~~the~~ Idaho's licensed private adoption agencies ~~in Idaho~~. Parent(s) requesting placement of a newborn Indian child are referred to tribal social services agencies. ~~(3-15-22)~~( )

~~**715. VOLUNTARY CONSENT.**~~
~~In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing must be signed before the Magistrate Judge. Once a parent's consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act will be filed by legal counsel representing the Department.~~ ~~(3-15-22)~~

~~**716. VOLUNTARY TERMINATION OF PARENTAL RIGHTS TO AN INDIAN CHILD.**~~
~~Consent to voluntary termination of parental rights by the parent(s) or Indian custodian(s) of an Indian child is not valid unless executed in writing and recorded before a court of competent jurisdiction, which may be a tribal court. The written consent must be accompanied by the presiding judge's certificate that:~~ ~~(3-15-22)~~

~~**01. Explanation of Consent**. The terms and consequences of the consent were fully explained in detail and were fully understood by the parent(s) or Indian custodian(s); and~~ ~~(3-15-22)~~

~~**02. Interpretation If Necessary**. The parent(s) or Indian custodian(s) fully understood the explanation in English or it was interpreted into a language the parent(s) or Indian custodian(s) understood.~~ ~~(3-15-22)~~

~~**717. FILING OF PETITION FOR VOLUNTARY TERMINATION.**~~
~~The petition for a voluntary termination of parental rights may be filed by an authorized agency, by the guardian(s) of the person or the legal custodian of the child or the person standing in loco parentis to the child, or by any other person having a legitimate interest in the matter.~~ ~~(3-15-22)~~

~~**718. REPORT TO COURT -- VOLUNTARY TERMINATION.**~~
~~If a voluntary consent to termination has been signed by the parent(s) before the Magistrate Court, an investigation or Report to the Court under the Termination Act is at the court's discretion. If the petition has been filed by the Department of Health and Welfare, Division of Family and Community Services, a report is required to accompany the petition, under Section 16-2008(2), Idaho Code.~~ ~~(3-15-22)~~

**715. -- 718. (RESERVED)**

**719. INVESTIGATION.**
An investigation ~~of the allegations in the petition~~ and ~~a~~ report ~~recommending disposition of the petition~~ under the Termination of Parent and Child Relationship Act may be completed by an authorized agency, certified adoption professional or the department. ~~will be completed and submitted to the court within thirty (30) days, unless an~~

~~extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, parent(s) and possibly the extended family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an investigation by the Department. The law also allows completion of an investigation by an authorized agency or a certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report will accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent~~ In addition to the factors set forth in Section 16-2008(2), Idaho Code, completed reports will include: ~~(3-15-22)~~( )

**01. Description of Investigation**. The ~~circumstances of~~ allegations contained in the petition ~~and the facts determined from the investigation;~~ ~~and~~ ~~(3-15-22)~~( )

**02. The Process of the Assessment and Investigation**; ( )

**0~~2~~3. Child-Related Factors**. ~~Child related factors,~~ The child's circumstances, including: ~~(3-15-22)~~( )

**a.** ~~Child's c~~Current functioning and behaviors; ~~(3-15-22)~~( )

**b.** Medical, educational and developmental needs ~~of the child~~; ~~(3-15-22)~~( )

**c.** ~~Child's h~~History and past experiences; ~~(3-15-22)~~( )

**d.** ~~Child's i~~Identity needs; ~~(3-15-22)~~( )

**e.** ~~Child's i~~Interests and talents; ~~(3-15-22)~~( )

**f.** ~~Child's a~~Attachments to current caretakers and any absent parent; ~~(3-15-22)~~( )

**g.** ~~Child's c~~Current living situation; ~~(3-15-22)~~( )

**04. Documentation**. Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child or parent is Indian and if so: ( )

**~~h~~a.** ~~Indian child's membership or eligibility for membership in tribe(s)~~Notification of the pending proceedings to the parent(s) or Indian custodian(s) and the Indian child's tribe, or the Secretary of the Interior if their identity or location is unknown; ~~(3-15-22)~~( )

**~~i~~b.** ~~Indian child's contacts with tribe(s)~~Notification of the right of the parent(s) or Indian custodian(s) and the Indian child's tribe to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; ~~(3-15-22)~~( )

**c.** Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; ( )

**~~j~~05. Circumstances**. The ~~present~~ circumstances~~, history, condition and desire~~ of the parent(s) whose rights are being terminated ~~regarding plans for the child;~~ including: ~~(3-15-22)~~( )

**a.** Present circumstances, history, and condition; ( )

**b.** Desires regarding plans for the child; ( )

**c.** Reasonable efforts made by the petitioner(s) to locate an absent parent(s) and provisions of notification to an unmarried father of the paternity registration requirement under Section 16-1513, Idaho Code;

( )

**d.** Contact with the parent(s) of a minor parent, unless lack of contact is explained; and ( )

**e.** The advertisement of any parent with a disability of their right to provide information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child; ( )

~~k~~**06.** **Facts.** ~~Such o~~ Other facts ~~as~~ which may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and ~~(3-15-22)~~( )

~~l~~**07.** **Recommendation.** A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. ~~(3-15-22)~~( )

~~**720. FILING OF A PETITION FOR INVOLUNTARY TERMINATION OF PARENT AND CHILD RELATIONSHIP.**~~
~~Unless there are compelling reasons it would not be in the interest of the child, the Department is required to file a Petition to Terminate the Parent and Child Relationship within sixty (60) days of a judicial determination that one (1) or more of the following has occurred:~~ ~~(3-15-22)~~

~~**01. Abandonment**. An infant has been abandoned;~~ ~~(3-15-22)~~

~~**02. Reasonable Efforts to Reunify the Family Are Not Required**. That reasonable efforts, as defined in Section 16-1610(2)(i)(iii), Idaho Code, are not required because the court determines the parent(s) has subjected a child or children to aggravated circumstances.~~ ~~(3-15-22)~~

~~**721. REPORT TO THE COURT – INVOLUNTARY TERMINATION.**~~
~~If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the Department, a report is required under Section 16-2008(2), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights must include:~~ ~~(3-15-22)~~

~~**01. Allegations**. The allegations contained in the petition.~~ ~~(3-15-22)~~

~~**02. Investigation**. The process of the assessment and investigation.~~ ~~(3-15-22)~~

~~**03. Family Circumstances**. The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained.~~ ~~(3-15-22)~~

~~**04. Medical Information**. The information forms regarding the child, birth mother, and birth father will be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents.~~ ~~(3-15-22)~~

~~**05. Efforts to Maintain Family**. Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family, or what active efforts to prevent the breakup of the Indian family have been made.~~ ~~(3-15-22)~~

~~**06. Absent Parent**. Reasonable efforts made by the petitioner to locate an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement under Section 16-1513, Idaho Code.~~ ~~(3-15-22)~~

~~**07. Planning**. Proposed plans for the child consistent with:~~ ~~(3-15-22)~~

~~**a.** The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and~~ ~~(3-15-22)~~

~~**b.** The Adoption and Safe Families Act of 1997, which prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family, and requires individualized documentation regarding the child's needs in permanent placement.~~ ~~(3-15-22)~~

~~**08. Compliance with the Indian Child Welfare Act**. Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so:~~ ~~(3-15-22)~~

~~**a.** Notification of the pending proceedings to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location is unknown according to Section 051 of these rules;~~ ~~(3-15-22)~~

~~**b.** Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding;~~ ~~(3-15-22)~~

~~**c.** Notification that if the court determines indigency, the parent(s) or Indian custodian(s) have the right to court-appointed counsel;~~ ~~(3-15-22)~~

~~**d.** Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child;~~ ~~(3-15-22)~~

~~**09. Termination of Parent-Child Relationship**.~~ ~~(3-15-22)~~

~~**a.** A recommendation and the reasons whether or not termination of the parent and child relationship is in the best interest of the child; and~~ ~~(3-15-22)~~

~~**b.** Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record.~~ ~~(3-15-22)~~

**72~~2~~0. -- 749. (RESERVED)**

## BECOMING AN ADOPTIVE PARENT
## (Sections 750-850)

### 750. APPLICATION TO BE ADOPTIVE PARENT(S).

~~Each field office is responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies~~An applicant must participate in the process and tasks to complete an adoptive home study. ~~(3-15-22)~~( )

**01. Initial Application**. Each adoptive applicant must: (3-15-22)

**a.** Cooperate with and allow the ~~D~~department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; ~~(3-15-22)~~( )

**b.** Inform the ~~D~~department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; ~~(3-15-22)~~( )

**c.** Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; (3-15-22)

**d.** Provide the name of, and a signed release to obtain the following information about, each member of the household: (3-15-22)

i. Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; (3-15-22)

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. (3-15-22)

**e.** Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the ~~D~~department or certified adoption professional; ~~(3-15-22)~~( )

**f.** All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "~~Child~~Foster Care Licensing," Section ~~404~~202. ~~(3-15-22)~~( )

**02. Psychological Evaluation**. An evaluation by a psychologist or a psychiatrist can be required ~~by the family services worker or certified adoption professional~~ when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with their supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. ~~(3-15-22)~~( )

**03. Orientation of Potential Applicants**. Initial meetings with individual families or groups of applicants, ~~or with individual families,~~ must be scheduled promptly ~~by the Department or the certified adoption professional, whichever received the inquiry and initial application from the family. These initial meetings must be used~~ to explain policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. ~~(3-15-22)~~( )

**04. Denial of Application**. Following an initial interview, an applicant who does not appear to meet the ~~Department's~~ requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. ~~(3-15-22)~~( )

**05. Application for Subsequent Adoptions**. Following the finalization of an adoption, a family may apply to be considered for another placement. (3-15-22)

**a.** ~~Adoptive p~~Parents who have ~~experienced a successful~~ finalized an adoption and wish to reapply must complete an adoption application and financial statement, complete a ~~Criminal History and~~ Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the ~~D~~department or certified adoption professional, an applicant must provide additional references. ~~(3-15-22)~~( )

**b.** The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. (3-15-22)

**c.** Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new ~~Criminal History and~~ Background Check, medical reports and personal references waived by the agency. ~~(3-15-22)~~( )

**751. -- 761. (RESERVED)**

**762. COMPLETING THE ADOPTION HOME STUDY.**
~~Upon application by a potential adoptive family, the family services worker or certified adoption professional will conduct the pre-placement adoptive home study and issue a recommendation.~~ The initial home study ~~must be~~ is completed prior to placement of any child for adoption in that home. (3-15-22)

**01. Interviews**. Family assessment interviews as well as individual interviews ~~must be~~ are held with the prospective adoptive parent(s). ~~(3-15-22)~~( )

**02. Content**. Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: (3-15-22)

**a.** Names, including maiden or other names used by the applicant(s); (3-15-22)

**b.** Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by viewing: ~~(3-15-22)~~( )

i. ~~Viewing a~~A certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-15-22)

ii. ~~Viewing o~~One (1) of the following documents for which a birth certificate was presumably required prior to its issuance~~, such as~~: armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards, or naturalization papers. ~~(3-15-22)~~( )

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. (3-15-22)

**c.** Verification ~~that~~ the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; ~~(3-15-22)~~( )

**d.** Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; (3-15-22)

**e.** Educational background of the applicant(s); (3-15-22)

**f.** A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; (3-15-22)

**g.** Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; (3-15-22)

**h.** Previous criminal convictions and history of child abuse and neglect; (3-15-22)

**i.** Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; (3-15-22)

**j.** Verification of marriages and divorces; (3-15-22)

~~**k.** Decision-making, communication, and roles within the marital relationship, if applicable;~~ ~~(3-15-22)~~

~~**l**~~**k.** ~~The n~~Names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; ~~(3-15-22)~~( )

~~**m**~~**l.** The religious and cultural practices of the family, including their interest and ability to ~~nurture and validate~~ parent and support a child's ~~particular~~ knowledge of and involvement in that child's cultural, racial, ethnic, and religious~~, and ethnic~~ background different than their own; ~~(3-15-22)~~( )

~~**n**~~**m.** For an Indian child, the study will ~~also~~ determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties~~.~~;
~~(3-15-22)~~( )

~~o~~n. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; (3-15-22)

~~p~~o. Activities, interests, and hobbies; (3-15-22)

~~q~~p. Child care and parenting skills, including historical and current methods of discipline used in the home; (3-15-22)

~~r~~q. Reasons for applying for adoption; (3-15-22)

~~s~~r. ~~The family's p~~Prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; ~~(3-15-22)~~( )

~~t~~s. ~~The a~~Attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (3-15-22)

~~u~~t. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; (3-15-22)

~~v~~u. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; (3-15-22)

~~w~~v. ~~The family's a~~Attitude about an adopted child's birth family including: ~~(3-15-22)~~( )

i. ~~Their a~~Ability to accept a child's background and help the child cope with their past; and ~~(3-15-22)~~( )

ii. ~~Their w~~Willingness to work with the child's family or tribe; ~~(3-15-22)~~( )

~~x~~w. Training needs of the applicant(s); and (3-15-22)

~~y~~x. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. (3-15-22)

**763. PRE-ADOPTIVE PARENT RESPONSIBILITIES.**
The pre-adoptive parent is responsible to keep the department, agency or ~~C~~certified ~~A~~adoption ~~P~~professional that completed the home study informed of any changes in the family's circumstances, or of any subsequent decision against adoption. ~~(3-15-22)~~( )

**764. ~~ADOPTIVE~~ADOPTION HOME STUDY.**
An adoption 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, an adoption home study remains valid for a period of two (2) years from the date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (3-15-22)

**765. -- 769. (RESERVED)**

**770. CLOSURE OF ~~ADOPTIVE~~ ADOPTION HOME STUDIES.**
Upon pre-adoptive placement of a child or children in the home ~~of a pre-adoptive parent~~, the ~~parent's~~ adoption home study closes for the placement of an additional child or children for the purpose of adoption until a home study update is completed. ~~(3-15-22)~~( )

**771. ADOPTION HOME STUDY UPDATE.**
An ~~adoptive~~ adoption home study must be updated on an annual basis to remain valid for new adoptive placements. ~~A~~

~~current home study is defined as a home study completed within the previous twelve (12) months.~~ Adoption ~~H~~home study updates must include the following: ~~(3-15-22)~~( )

**01. Initial Adoption Home Study and Subsequent Home Study Updates**. All ~~C~~changes to the ~~I~~information ~~C~~contained in the ~~I~~initial Adoption Home Study and any ~~S~~subsequent Adoption Home Study Updates. ~~(3-15-22)~~( )

**02. Family Functioning and Inter-Relationships**. ~~All~~ Information on any ~~C~~changes in ~~F~~family Functioning and ~~I~~inter- ~~R~~relationships. ~~(3-15-22)~~( )

**03. Circumstances Adversely Impacting Child Placed for Adoption**. ~~Any~~ Information ~~R~~regarding ~~C~~circumstances ~~W~~within the ~~F~~family that may ~~A~~adversely ~~I~~impact a ~~C~~child ~~P~~placed for ~~A~~adoption. ~~(3-15-22)~~( )

**04. A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home**. A home study update completed for the purpose of adoptive placement of an additional child or children in the home where a child or children are already placed for adoption and that adoption has not yet finalized must include agreement for the placement of the additional child or children by the individual or agency responsible for the placement of the initial child or children, and the individual or agency responsible for the additional child or children. (3-15-22)

**772. -- 789. (RESERVED)**

**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)~~( )

**791. -- ~~799~~832. (RESERVED)**

~~**800. PLACEMENT OF THE CHILD.**~~
~~Adoptive placement of a child in the custody or guardianship of the Department will be determined as follows:~~ ~~(3-15-22)~~

~~**01. Factors to be Considered in Determining Suitability of Adoptive Placements**.~~ ~~(3-15-22)~~

~~**a.** For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed:~~ ~~(3-15-22)~~

~~i. Extended family;~~ ~~(3-15-22)~~

~~ii. Other members of the child's tribe; or~~ ~~(3-15-22)~~

~~iii. Other Indian families.~~ ~~(3-15-22)~~

~~**b.** The primary factor in the review of a prospective adoptive family's eligibility is the ability to protect and promote the best interests of a child to be placed in their home.~~ ~~(3-15-22)~~

~~**c.** The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child.~~ ~~(3-15-22)~~

~~**02. Selection of Adoptive Placement**. The adoptive placement of a child in the custody or legal guardianship of the Department will be selected using a committee process of no less than three (3) individuals and be approved by a field program manager as described by the practice standards of the Department.~~ ~~(3-15-22)~~

~~03. Disclosure. The field office must provide full confidential background information and discuss the child's history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family, which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. (3-15-22)~~

~~801. -- 829. (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.~~

~~TABLE 832~~

| ~~Service~~ | ~~Fee~~ |
|---|---|
| ~~General Information/Adoption Inquiries~~ | ~~No Charge~~ |
| ~~Health and Welfare Application:~~<br>~~Couple~~<br>~~Single Parent~~ | <br>~~$50~~<br>~~$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)~~

**833. PLACEMENT SUPERVISION -- TRANSFER FROM OUT OF STATE PRIVATE AGENCY.**
When a prospective adoptive parent(s) moves to Idaho, with a child who has been placed with them by a private agency in their former state of residency, ~~the sending state agency must arrange through the Interstate Compact on the Placement of Children,~~ supervision services are provided through one of Idaho's private, licensed adoption agencies, or a certified adoption professional. ~~(3-15-22)~~( )

**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)

## THE ADOPTIVE PLACEMENT
## (Sections 860-888)

**860. PLACEMENT OF THE CHILD.**
The adoptive placement of a child in the custody or legal guardianship of the department will be selected using a committee process of no less than three (3) individuals and be approved by a regional program manager. ( )

**01. Factors Considered in Determining Adoptive Placements**. ( )

**a.** For an Indian child, Indian Child Welfare Act (1978) placement preferences must be followed: ( )

i. A member of the child's extended family; ( )

ii. Other members of the Indian child's tribe; ( )

iii. Other Indian families. ( )

**b.** The primary factor in determining adoptive placement is the prospective family's ability to protect and promote the best interests of the child to be placed in their home. ( )

**c.** The ability to meet the cultural and racial needs of the child does not necessitate the family have the same culture or race of the child. ( )

**02. Disclosure**. Full background information and the child's history must be discussed with the prospective adoptive parent(s) prior to pre-adoptive placement. The disclosure of background information is confirmed at the time of placement by a written acknowledgment signed by the family services worker and prospective adoptive family. A copy of this statement must be provided to the adoptive family and one (1) copy is kept in the child's permanent record. ( )

**860~~1~~. PROCEDURES FOLLOWING ~~THE~~ ADOPTIVE PLACEMENT.**
~~Following the adoptive placement, a~~A period of support and supervision ~~by the Department~~ lasting at least six (6) months must be completed following the adoptive placement prior to the finalization of the adoption. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last six (6) months, the supervisory period may be reduced to a minimum of three (3) months. ~~The family services worker will make s~~ Scheduled visits to the home will be made at least monthly during this period to assist the child and the family in their adjustment ~~to each other and will update the child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the Permanency Program Specialist, the Department will request the prospective adoptive parent(s) contact their attorney. The regional family services worker will provide the attorney with the necessary documentation to file the petition for adoption~~. ~~(3-15-22)~~( )

**861~~2~~. PROGRESS REPORTS.**
~~Progress r~~Reports documenting the progress of the child's placement will be prepared at least every thirty (30) days. ~~regularly and will be based on~~ Reports include the family services worker's or certified adoption professional's findings based on their observation of each child and prospective adoptive parent(s) with an emphasis on~~.~~:
(3-15-22)

**01. Initial and Subsequent Reports**. ~~Progress reports must be made at intervals not to exceed thirty (30) days. These reports will include the family services worker's or certified adoption professional's observation of each child and the prospective adopting parent(s), with emphasis on:~~ ~~(3-15-22)~~( )

**a.** Special needs~~, special~~ and/or circumstances~~, or both,~~ of each child ~~at time of placement~~; ~~(3-15-22)~~( )

**b.** Services planned or provided to each child and the family ~~during the report period~~; ~~(3-15-22)~~( )

~~**c.** Services to be provided to each child and the family; (3-15-22)~~

~~**d**~~**c.** General appearance and adjustment of each child during the report period ~~(may include eating, sleep patterns, responsiveness, bonding)~~; ~~(3-15-22)~~( )

~~**e**~~**d.** Adjustment of each child to ~~all of the following that apply:~~ school~~,~~ and/or daycare~~, and day treatment program~~; ~~(3-15-22)~~( )

~~**f**~~**e.** Health and developmental progress, and medical practitioner information for each child; (3-15-22)

~~**g**~~**f.** ~~Whether each child has been accepted~~Acceptance of each child for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; ~~(3-15-22)~~( )

~~**h**~~**g.** ~~Family's~~Each family member's adjustment to adoptive placement; ~~(3-15-22)~~( )

~~**i**~~**h.** Adoption assistance negotiation; (3-15-22)

~~**j**~~**i.** Changes in family situation or circumstances; and ~~(3-15-22)~~( )

~~**k**~~**j.** Areas of concern during the report period as addressed by each child and the adoptive parent(s); and (3-15-22)

~~**l.** The date of the next required six (6) month review or twelve (12) month permanency hearing. (3-15-22)~~

~~**02. Monthly Foster Care Payments -- Pre-Adoptive Placement**. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license. (3-15-22)~~

## ~~862. PETITION TO ADOPT UNDER THE ADOPTION OF CHILDREN ACT.~~

~~**01. Filing a Petition**. When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney files a petition to adopt with the court. A copy of that petition is served upon the director of the Department. Upon receipt of a copy of the petition to adopt, the family services worker, licensed children's adoption agency worker or certified adoption professional verifies the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. (3-15-22)~~

~~**02. Registration and Acknowledgment**. Upon receipt of the petition to adopt, the field office registers the petition and acknowledge receipt to the court and to the petitioner(s) or private adoption agency. If the licensed adoption agency or certified adoption professional who completed the pre-placement home study is not identified, the information should be obtained from the petitioner(s)' attorney. The register will indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. (3-15-22)~~

## 863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.

~~According to Section 16-1506, Idaho Code, an~~Written reports of investigation regarding ~~the~~ allegations stated in ~~the~~ petitions ~~and subsequent written report of findings must be filed with the court unless the investigation is waived by~~

~~order of the court. The~~ filed under Section 16-1506, Idaho Code, are filed at the same time as the prospective adoptive family's ~~pre-placement~~ adoption home study ~~will be filed at the same time as the written report of investigation. If the family services worker,~~ The investigation and report may be completed by the department, licensed ~~child placing~~ adoption agency ~~staff~~, or certified adoption professional ~~is unable to complete the study within thirty (30) days, an extension of time must be requested in writing of the court, stating the reasons for the request.~~ supervising the adoptive placement. Caution is exercised discussing identifying information to avoid revealing information in the petition while attempting to secure the necessary facts for the report. If ~~the worker has~~ there is reason to believe ~~that~~ the child may be an Indian child and the child's tribe or the Secretary of the Interior has not received written Notice of Pending Proceedings, the worker must inform the court, ~~and~~ the ~~petitioner's~~ attorney for the petitioner(s) and the independent agency of the need to comply with the Indian Child Welfare Act. ~~This adoption~~ The report to the court must address the following: ~~(3-15-22)~~( )

**01. Legal Availability of the Child**. ~~It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition.~~ The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), and record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following: ~~(3-15-22)~~( )

**a.** ~~The b~~Birth certificate of the child; ~~(3-15-22)~~( )

**b.** ~~The c~~Consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; ~~(3-15-22)~~( )

**c.** Termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court; ( )

**d.** Documentation of marriage and divorce; ( )

**~~c~~e.** If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe; (3-15-22)

**~~d~~f.** Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption; (3-15-22)

**~~e~~g.** ~~The d~~Death certificate of a deceased parent; ~~(3-15-22)~~( )

**~~f~~h.** Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-15-22)

**~~g~~i.** The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. (3-15-22)

**02. Needs of the Child**. ~~The report to the court must address the needs of the child,~~ History of the child and the child's birth family including ~~but~~: ~~(3-15-22)~~( )

~~**a.** The history of the child and the child's birth family; (3-15-22)~~

**~~b~~a.** ~~The family history for a child who has been previously adopted, should include i~~Information about the child's previous adoptive family and the circumstances of the disruption if the child was previously adopted; ~~(3-15-22)~~( )

**~~e~~b.** ~~A d~~Detailed description of the circumstances that brought about the placement with the prospective adoptive family; ~~(3-15-22)~~( )

~~d~~c. ~~The state of Idaho~~ Social, ~~M~~medical, and ~~G~~genetic ~~H~~history forms must be completed, made available to the prospective adoptive family, and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and ~~(3-15-22)~~( )

~~e~~d. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition including any alleged relative or stepparent relationship between the child and the prospective adoptive parent(s) specifying any documentary evidence of that relationship. ~~(3-15-22)~~( )

~~03. Degree of Relationship of the Child to Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (3-15-22)~~

0~~4~~3. **Evaluation and Recommendation**. ~~The family services worker or certified adoption professional must provide a~~ A brief summary of data presented in prior sections and the ~~pre-placement~~ adoption home study, supporting the recommendation regarding the adoption. ~~(3-15-22)~~( )

~~05. Medical Information. A copy of medical and genetic information compiled in the investigation must be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. (3-15-22)~~

~~06. Confidentiality of Information. The family services worker must exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (3-15-22)~~

~~07. Financial Accounting. A financial accounting must be approved by the court of any financial assistance given to the birth parent(s) that exceeds five hundred dollars ($500), in accordance with Section 18-1511, Idaho Code. (3-15-22)~~

**864. -- 869. (RESERVED)**

**870. REMOVAL OF A CHILD FROM A PROSPECTIVE ADOPTIVE HOME.**
~~Despite careful assessment of the child and the family prior to placement, circumstances may arise that make it necessary to remove the child from the prospective adoptive home prior to adoption. The child may manifest problems the family is unable to accept or to handle constructively; or changed circumstances may develop that make it inadvisable for the placement to continue.~~ The final decision to remove a child from a prospective adoptive home will be made by the Department as the legal guardian of the child. ~~(3-15-22)~~( )

~~871. TEMPORARY REPLACEMENT AFTER DISRUPTION.~~
~~When a disruption occurs and it becomes necessary to remove a child from a prospective adoptive home, the field office where the child has been placed is responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). (3-15-22)~~

**87~~2~~1. -- 880. (RESERVED)**

**881. CLOSURE OF CASE.**
~~The family services worker must request from the adopting parent(s)' attorney, a~~A certified copy of the final order of adoption~~,~~ and a copy of the ~~family service worker's~~ executed consent to adoption ~~taken at the time of the adoption finalization. These documents~~ are necessary to close the adoption file and initiate the child's adoption assistance benefits. ~~(3-15-22)~~( )

**882. RECORDS OF PLACEMENT.**
Upon finalization of the adoption, the complete record from the local field office, regarding the child and family will be ~~requested by the State Adoption Program Specialist for permanent storage~~ permanently stored. ~~Records of adoption involving Indian children must be forwarded by the State Adoption Program Specialist to the Secretary of~~

~~the Interior.~~ ~~(3-15-22)~~( )

~~883. POST-LEGAL ADOPTION SERVICES.~~
~~Upon finalization of the adoption, the Department can offer post-legal adoption services upon request, including case management services, referrals for counseling or other supportive services.~~ ~~(3-15-22)~~

883. (RESERVED)

**884. OPENING SEALED ADOPTION RECORDS ~~OF ADOPTIONS~~.**
In addition to the exceptions noted in Section 16-1511, Idaho Code, ~~a~~ sealed adoption proceedings may be opened in the following circumstances according to the Indian Child Welfare Act: ~~(3-15-22)~~( )

**01. Motion of an Indian Individual**. Upon motion of an Indian individual who has reached the age of eighteen (18) and was the subject of an adoption, the court must provide tribal affiliation, if any, of the individual's biological parent(s) and other information necessary to protect any rights flowing from the individual's tribal relationship. (3-15-22)

**02. Request From the Secretary of the Interior or the Indian Child's Tribe**. Upon request of the Secretary of the Interior or the Indian child's tribe, evidence of efforts to comply with the Indian Child Welfare Act must be made available to the parties requesting such information. (3-15-22)

**885. -- 888. (RESERVED)**

**CERTIFIED ADOPTION PROFESSIONAL**
**(Sections 889-899)**

**889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.**
An applicant requesting to become a Certified Adoption Professional must meet the following criteria: (3-15-22)

**01. College Degree**. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Child and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; (3-15-22)

**02. Adoption Training**. ~~Must have completed a~~ A minimum of twenty (20) hours of training in adoption services within the last four (4) years; ~~(3-15-22)~~( )

**03. ~~Department Criminal History and~~ Background Clearance**. ~~Must c~~ Complete a ~~Department criminal history and~~ background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and receive a clearance; ~~(3-15-22)~~( )

**04. License**. A current license to practice social work in the state of Idaho; (3-15-22)

**05. Experience**. A minimum of two (2) years of experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; ~~(3-15-22)~~( )

**06. References**. Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; (3-15-22)

**07. Insurance**. Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and (3-15-22)

**08. Application Fee**. An application fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the application is denied. (3-15-22)

**890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.**

**01. Certification**. Certification for adoption professionals ~~will be~~ is completed through the Division of

Family and Community Services ~~and will be~~. Certifications are effective for a period of two (2) years. ~~(3-15-22)~~( )

**02. Types of Certification**. Certified adoption professionals may ~~be certified for~~ provide any, some, or all of the following services: ~~(3-15-22)~~( )

**a.** Adoption home studies for families seeking domestic infant adoption. (3-15-22)

**b.** Adoption home studies for families seeking domestic special needs adoption. (3-15-22)

**c.** Adoption home studies for families seeking step-parent or relative adoption. (3-15-22)

**d.** Court ordered investigations for termination of parental rights for domestic private or independent adoptions. (3-15-22)

**e.** Court reports for domestic private or independent adoptions. (3-15-22)

**f.** Supervision of adoptive placements for domestic private or independent adoptions. (3-15-22)

**03. Limits of Certification**. Certified adoption professionals may not provide the following services: (3-15-22)

**a.** Birth parent education or counseling. (3-15-22)

**b.** Services related to international adoption. (3-15-22)

**04. Recertification**. Certified adoption professionals must apply for renewal of their certificate every two (2) years and must provide the following: (3-15-22)

**a.** Documentation of ten (10) hours of adoption training taken during the previous two (2) years; (3-15-22)

**b.** Verification of malpractice insurance; (3-15-22)

**c.** A satisfactory recommendation from the Division of Family and Community Services designee responsible for the review of the certified adoption professional's work; and ~~(3-15-22)~~( )

~~**d.** Satisfactory recommendations from a minimum of two (2) families for whom the certified adoption professional has provided adoption services during the previous two (2) years; and (3-15-22)~~

~~**e**~~**d.** A certification fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the recertification is denied. (3-15-22)

**05. Lapse of Certification**. If a certified adoption professional does not apply for recertification within two (2) years in accordance with Subsection 890.04 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ten (10) hours of adoption training during the two (2) years previous to this new application, and a new ~~criminal history and~~ background check. ~~(3-15-22)~~( )

**a.** If the individual applying for certification has received a ~~Department criminal history and background check clearance~~ background check clearance in accordance with IDAPA 16.05.06 "Criminal History and Background Checks within three (3) years of the date of this application and has not lived outside the state of Idaho since their last ~~criminal history and~~ background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: ~~(3-15-22)~~( )

i. A name-based background check by the Idaho State Police; (3-15-22)

ii. A check of the Idaho Child Protection Central Registry; (3-15-22)

iii. A check of the Idaho Adult Protection Registry; and (3-15-22)

iv. A check of the Idaho Sexual Offender Registry. (3-15-22)

**b.** If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous ~~Department criminal history~~ and background check clearance ~~was completed, they must get~~ a new Department criminal history and background check clearance. ~~(3-15-22)~~( )

**06. Denial of Recertification**. The ~~D~~department may choose not to recertify a certified adoption professional. Notification of denial will be made ~~by the Department~~ by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for denial of recertification are one (1) or more of the following: ~~(3-15-22)~~( )

**a.** Substandard quality of work following the development of a quality improvement plan; (3-15-22)

**b.** Failure to gain ten (10) additional hours of adoption continuing education required for recertification; ~~or~~ ~~(3-15-22)~~( )

**c.** A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. (3-15-22)

**d.** Failure to maintain malpractice insurance; or ~~(3-15-22)~~( )

**e.** Failure to maintain a license to practice social work in the state of Idaho. This requirement does not apply to a certified adoption professional who has maintained their initial certification that occurred prior to July 1, 2012. (3-15-22)

**07. Decertification**. A certified adoption professional can be decertified by the ~~D~~department at any time during a two (2) year period of certification. Notification of decertification will be made by the ~~D~~department by certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: ~~(3-15-22)~~( )

**a.** Conviction for a felony; (3-15-22)

**b.** Negligence in carrying out the duties of a certified adoption professional; (3-15-22)

**c.** Misrepresentation of facts regarding their qualifications or the qualifications of a prospective adoptive family to adopt, or both; (3-15-22)

**d.** Failure to obtain ~~D~~departmental review and approval of ~~pre-placement~~ home studies ~~and~~ court reports, and/~~or~~ placement supervision reports, or both, on more than one (1) occasion; ~~(3-15-22)~~( )

**e.** Failure to maintain malpractice insurance; (3-15-22)

**f.** Suspension or loss of a license to practice social work in Idaho; or (3-15-22)

**g.** Practice as a certified adoption professional outside the scope of the certification. (3-15-22)

**891. CERTIFIED ADOPTION PROFESSIONAL ~~'S~~ CLIENT RELATIONSHIP.**
A certified adoption professional may not assume a legal relationship with any child for whom they have been contracted to perform services and may not provide services for anyone with whom they have had a personal or professional relationship during the previous two (2) years. (3-15-22)

**892. MINIMUM STANDARDS FOR SERVICE.**
A certified adoption professional must meet the following service requirements: (3-15-22)

**01. Description of Services Available**. A written description of services will be provided to families by the certified adoption professional before any work is completed. The description of services must include information regarding Department oversight of the certified adoption professional and any limitations related to the use of the completed home study; (3-15-22)

**02. Education**. Provision of, or referral to, educational resources to adoptive applicants requesting non-relative adoption; (3-15-22)

**03. Content**. Standards for ~~pre-placement~~ home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established ~~by the Department~~ in these rules; ~~(3-15-22)~~( )

**04. Release of Information**. A written release of information that gives consent to the exchange of information between the certified adoption professional and Child and Family Services must be obtained from a family that receives services from a certified adoption professional; and (3-15-22)

**05. Disclosure of Non-Identifying Information**. When providing adoption supervision or adoption finalization court report services, the certified adoption professional must provide disclosure of all known non-identifying information about the child, the child's birth parents, and the circumstances leading to the decision to place the child for adoption. (3-15-22)

**893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.**
Records of the ~~pre-placement~~ home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the Division of Family and Community Services designee two (2) weeks prior to the required court filing date. The designee will be responsible for monitoring of quality of the services provided. ~~(3-15-22)~~( )

**894. FEES CHARGED BY THE DEPARTMENT.**
Monitoring fees will accompany the submission of each report and be paid directly to the Department through the Division of Family and Community Services as follows:

| Table 894 - Qualified Individuals | |
|---|---|
| Home Study or Court Report | $50 |
| Supervision Report or Home Study Update | $30 |

(3-15-22)

**895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.**
The Division of Family and Community Services is responsible for: (3-15-22)

**a.** Reviewing and responding to submitted reports within five (5) business days; (3-15-22)

**b.** Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and (3-15-22)

**c.** Dissemination of information to certified adoption professionals that may impact provided services. (3-15-22)

**896. -- 899. (RESERVED)**

**ADOPTION AND GUARDIANSHIP ASSISTANCE**
**(Sections 900-999)**

**900. CONDITIONS FOR ADOPTION ASSISTANCE.**
The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Eligibility is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once an application for adoption assistance is submitted to the Division of Family and Community Services, the Division will respond with a determination of the child's eligibility within forty-five (45) days. (3-15-22)( )

**01. Determination of Eligibility for Title IV-E Adoption Assistance**. Child and Family Services will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance: (3-15-22)

**a.** Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria at the time of removal from their home. (3-15-22)

i. If the child is removed from their home in accordance with the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (3-15-22)

ii. If the child is removed from the home in accordance with a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. (3-15-22)

**b.** Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. (3-15-22)

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (3-15-22)

ii. The circumstances of a child's removal from their home or whether the public child welfare agency has responsibility for the child's placement and care are not relevant. (3-15-22)

**c.** Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (3-15-22)

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held that led to the removal of the child from their home; (3-15-22)

ii. At the time of the voluntary relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (3-15-22)

**d.** Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. (3-15-22)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (3-15-22)

ii. The child continues to reside in the foster home with their minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption

~~petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances.~~ ~~(3-15-22)~~

~~**c.** Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs.~~ ~~(3-15-22)~~

~~i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption.~~ ~~(3-15-22)~~

~~ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency.~~ ~~(3-15-22)~~

~~iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption.~~ ~~(3-15-22)~~

~~iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption.~~ ~~(3-15-22)~~

0~~2~~1. **Special Needs Criteria**. The definition of special needs includes the following factors: (3-15-22)

**a.** The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or its equivalent; and (3-15-22)

**b.** The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on the child's experience of documented physical, emotional, or sexual abuse, or neglect; or (3-15-22)

**c.** The child's age makes it difficult to find an adoptive home; or (3-15-22)

**d.** The child is being placed for adoption with at least one (1) sibling; and (3-15-22)

**e.** ~~The State must make a r~~Reasonable but unsuccessful effort to place the child with special needs without a subsidy must be made, except in cases where it is not in the best interests of the child due to their significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. ~~(3-15-22)~~( )

~~**03. Determination of Eligibility for State-Funded Adoption Assistance**. Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy.~~ ~~(3-15-22)~~

~~**04. Interjurisdictional Adoptions**. When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E adoption assistance benefits.~~ ~~(3-15-22)~~

~~**05. International Adoptions and Adoption Assistance**. A child who meets the criteria for special needs under Subsection 900.02 of this rule, who is not a citizen or resident of the United States, and who was adopted outside of the United States or was brought into the United States for the purpose of being adopted, is not eligible to receive adoption assistance. This restriction does not prohibit adoption assistance payments for a child described in this Subsection who is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the adoptive parents.~~ ~~(3-15-22)~~

~~**901. ATTEMPT TO PLACE WITHOUT ADOPTION ASSISTANCE.**~~
~~The Department is required to attempt to place all children for adoption without adoption assistance. However, all adoptive families are entitled to full information and disclosure regarding the adoption assistance program. Once the most suitable family is located for the child, the family will be informed of the needs and history of the child and~~

~~asked if they can adopt the child without adoption assistance. If the family indicates that they need adoption assistance, the Department will begin the process of determining the amount and type of benefits for the child.~~ ~~(3-15-22)~~

**90~~2~~1. -- 90~~9~~7. (RESERVED)**

**908. TITLE IV-E ADOPTION ASSISTANCE.**
The department will remain in compliance with the requirements and benefits for federally funded adoption assistance benefits per the Social Security Act, most recently updates by the Family First Prevention Services Act of 2018 (P.L. 115-123). ( )

**909. STATE FUNDED ADOPTION ASSISTANCE.**
Children in state custody who meet the special needs criteria found in Subsection 900.01 of these rules and do not qualify for Title IV-E adoption assistance found at Section 908 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. ( )

**910. TYPES AND AMOUNTS OF ASSISTANCE.**
The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-15-22)

**01. Nonrecurring Adoption Reimbursement**. Payment for certain one-time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. (3-15-22)

**a.** The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption finalization ~~of a child with special needs~~ and which are not incurred in violation of state or federal law. ~~They may include mileage and lodging involved in visiting the child before placement occurs.~~ These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. ~~(3-15-22)~~( )

**b.** Documentation of expenses must be submitted. (3-15-22)

**c.** Costs are reimbursable up to two thousand dollars ($2,000) per child and are entered on ~~the A~~adoption ~~A~~assistance ~~P~~program ~~A~~agreement. ~~(3-15-22)~~( )

**d.** Children for whom the adoption has been finalized without a negotiated ~~N~~nonrecurring ~~E~~expenses ~~R~~reimbursement ~~A~~agreement are not eligible to apply for these benefits. ~~(3-15-22)~~( )

**02. Monthly Cash Payment**. ~~Financial assistance in the form of a~~ A monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the ~~adoption~~ family services worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. ~~(3-15-22)~~( )

**a.** The amount must not exceed the rate for family foster care ~~found in Subsections 483 and 484 of these rules~~, which would be made if the child were in a family foster home in Idaho. ~~(3-15-22)~~( )

**b.** Payments received for treatment foster care, gifts, clothing, and school fees are not considered part of the family foster care rate. (3-15-22)

~~**c.** For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident.~~ ~~(3-15-22)~~

**~~d~~c.** For children who are currently eligible for Personal Care Services (PCS), the treatment foster care

rate of up to a maximum of one thousand dollars ($1,000) per month may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. (3-15-22)

~~c. Benefits will continue until the child reaches eighteen (18) if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, based upon an annual determination of continuing need.~~ ~~(3-15-22)~~

**03. Title XIX -- Medicaid Coverage**. Any child with special needs who has an adoption assistance agreement in effect is ~~also~~ eligible for medical coverage. ~~(3-15-22)~~( )

~~a. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement.~~ ~~(3-15-22)~~

~~b. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage must apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance has reached its benefit limit.~~ ~~(3-15-22)~~

~~c. All services reimbursed by Medicaid must be determined to be medically necessary.~~ ~~(3-15-22)~~

~~d. Prior authorization may be required for some Medicaid reimbursable services.~~ ~~(3-15-22)~~

~~e. Medicaid benefits are available until the child reaches the age of eighteen (18) if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, based upon an annual determination of continuing need.~~ ~~(3-15-22)~~

**04. Title XX -- Social Services**. Any child with special needs who has an ~~A~~adoption ~~A~~assistance ~~A~~agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. ~~(3-15-22)~~( )

**911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.**
A written agreement must be negotiated and fully executed between the ~~D~~department and adopting family prior to the finalization of adoption and implementation of benefits. ~~(3-15-22)~~( )

**01. Agreement Specifications**. The agreement specifies the following: (3-15-22)

**a.** The type and amount of assistance to be provided; (3-15-22)

**b.** ~~That there will be a~~An annual review of each agreement will be conducted by the ~~D~~department to evaluate the need for continued ~~subsidy~~ monthly cash payment and the amount of the ~~subsidy~~ payment; ~~(3-15-22)~~( )

**c.** ~~That t~~The ~~agreed upon~~ type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; ~~(3-15-22)~~( )

**d.** ~~That t~~The adoptive parent(s) are required to inform the ~~D~~department of any circumstances that would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. ~~(3-15-22)~~( )

**02. Termination of Adoption Assistance**. Adoption assistance ~~will be~~ benefits are terminated if: ( )

**a.** ~~t~~The adoptive parent(s) no longer have legal responsibility for the child; ( )

**b.** ~~as a result of termination of parental rights, t~~The child is no longer receiving any financial support from the parents, or ( )

**c.** ~~t~~The child has reached the age of eighteen (18) years if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday regardless of the child's educational status. ~~(3-15-22)~~( )

**03. Suspension of Adoption Assistance**. Adoption assistance monthly cash payments will be suspended if the child is placed in foster care in any state. Benefits will be reinstated upon the child's reunification with the adoptive parent(s). ( )

**0~~3~~4. Adoption Assistance Follows the Child**. If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. ~~If the child is IV-E or state-funded adoption assistance eligible, r~~ Referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. ~~Non IV-E eligible c~~ Children receiving a state funded adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. ~~(3-15-22)~~( )

**912. -- 919. (RESERVED)**

**920. ~~REQUEST FOR RECONSIDERATION~~ ADMINISTRATE REVIEW FOR ADOPTION ASSISTANCE.**
~~Families who adopted a child, or children with special needs on or after April 1, 1982, through either the Department or a licensed Idaho children's adoption agency, may be eligible for benefits through the Adoption Assistance program. Persons who adopted their relative children, may also be eligible for these adoption assistance benefits~~Adoptive parents have twenty-eight (28) days from the date of the department's notification of Title IV-E adoption assistance eligibility determination or change in adoption assistance benefits to request an administrative review. Notification will be made by mail of their right to appeal and procedures for filing an appeal.
~~(3-15-22)~~( )

**01. ~~Adoption Assistance Agreement~~Request for Reconsideration**. ~~Per Public Law 96-272, the adoptive family must sign an adoption assistance agreement prior to the finalization of the adoption in order for the child to receive benefits.~~ Adoptive ~~families~~ parents who were not informed ~~of these benefits or who were wrongly denied these benefits~~ of adoption assistance benefits prior to the finalization of their child's adoption may submit an application to the ~~D~~department prior to the eighteenth birthday of the adopted child ~~for a determination of eligibility for these benefits~~. ~~(3-15-22)~~( )

**~~02~~a. ~~Eligibility Determination~~**.~~The Division of Family and Community Services determines e~~Eligibility is determined based on the eligibility factors ~~determining~~ for a special needs child that were in effect at the time of the child's adoption. ~~(3-15-22)~~( )

**~~a~~b.** If the ~~IV-E~~ eligibility determination finds ~~that~~ a child was eligible for ~~these~~ benefits at ~~the~~ that time of the child's adoption, and an agreement was not signed prior to the finalization, the ~~D~~department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. ~~(3-15-22)~~( )

**~~b~~c.** The adoptive ~~family~~ parent(s) may request an administrative ~~fair~~ hearing for ~~adoption assistance~~ Title IV-E adoption assistance eligibility determination. ~~(3-15-22)~~( )

i. The determinations to be made at ~~this~~ and administrative review hearing ~~are~~ is whether extenuating circumstances exist or whether the family was wrongly denied eligibility, or both. ~~(3-15-22)~~( )

ii. ~~The Division of Family and Community Services may not change its eligibility determination for a child eligible for IV-E adoption assistance benefits~~A favorable ruling from a fair hearing officer is required for the department to change Title IV-E eligibility and provide adoption assistance based on extenuating circumstances ~~without obtaining a favorable ruling from a fair hearing officer~~. ~~(3-15-22)~~( )

~~921. BURDEN OF PROOF -- EXTENUATING CIRCUMSTANCES.~~
~~The family has the burden of proving extenuating circumstances at the fair hearing, although, if the state agency is in agreement that the family had erroneously been denied benefits, the agency may provide such facts to the family or present corroborating facts on behalf of the family to the fair hearing officer. Once the hearing officer rules in favor of a family that extenuating circumstance exist and that the child is eligible for IV-E adoption assistance benefits, the agency must negotiate an agreement with the adoptive family consistent with these rules.~~ ~~(3-15-22)~~

**922~~1~~. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.**
The ~~D~~department ~~of Health and Welfare, Division of Family and Community Services~~ may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920.01 of these rules. ~~(3-15-22)~~( )

**922. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.**
The purpose of the guardianship assistance program is to encourage legal permanency of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services for a determination of eligibility. Eligibility is determined solely on the child's need. No means test may be applied to the income or resource of the prospective legal guardian(s). The following conditions must be met for a child to be eligible for guardianship assistance. ( )

**01. Assessment of Suitability**. The suitability of an individual to become a legal guardian for a specific child or sibling group will be determined through a home study. ( )

**02. Eligibility for Guardianship Assistance**. Guardianship assistance will be determined for each child placed in the legal custody of the department prior to the finalization of the guardianship. Eligibility is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will be considered for a state-funded subsidy. ( )

**03. Guardianship and Foster Care Licensure**. To receive guardianship assistance, a potential legal guardian must be licensed or approved to provide foster care. ( )

**923. TITLE IV-E GUARDIANSHIP ASSISTANCE.**
In addition to Sections 922 and 926-928 of these rules, the department will comply with the requirements and benefits of the Title IV-E Guardianship Assistance Program in the Social Security Act, made available by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). ( )

**924. STATE-FUNDED GUARDIANSHIP ASSISTANCE.**

**01. A Child Is Eligible For State-funded Guardianship Assistance If The Department Determines The Child Meets The Requirements In Section 922 Of These Rules In Addition To The Following**: ( )

**a.** The child meets the special needs criteria in Susbsection 900.01 of these rules; ( )

**b.** The child's parents have had their parental rights legally terminated or are deceased; and ( )

**c.** There is documentation of unsuccessful efforts to place the child for adoption. ( )

**925. TYPES AND AMOUNTS OF GUARDIANSHIP ASSISTANCE.**

**01. Nonrecurring Expenses**. The department will reimburse the cost, up to two thousand dollars ($2,000) of nonrecurring expenses associated with obtaining legal guardianship of a child eligible for Title IV-E or state-funded guardianship assistance. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence. ( )

**02. Monthly Cash Payment**. The cash payment for Title IV-E or state-funded guardianship assistance

may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Monthly cash payments are prospective only. There will be no retroactive benefits or payments. ( )

**03. Title XIX Medicaid**. ( )

**a.** A child eligible for Title IV-E guardianship assistance is eligible for Medicaid in the state where the child resides. ( )

**b.** A child eligible for state-funded guardianship assistance living in Idaho is eligible for Medicaid benefits. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child in the new state of residency. ( )

**926. GUARDIANSHIP ASSISTANCE PROGRAM AGREEMENTS.**
The department and the prospective legal guardian(s) must enter into a written agreement prior to the finalization of the guardianship. The department will provide the prospective legal guardian(s) with a copy of the agreement. ( )

**01. Agreement Specifications**. All guardianship assistance agreements will specify the following: ( )

**a.** The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; ( )

**b.** The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; ( )

**c.** Any additional services and assistance for which the child and the legal guardian will be eligible under the agreement; ( )

**d.** The procedure by which the legal guardian may apply for additional services; ( )

**e.** A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; ( )

**f.** The procedure by which the department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and ( )

**02. Termination of Guardianship Assistance**. Guardianship assistance benefits and cash payments are automatically terminated when: ( )

**a.** A court terminates the legal guardianship or removes the legal guardian; ( )

**b.** The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; ( )

**c.** The child has reached the age of eighteen (18) years if the guardianship was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, regardless of the child's educational status or physical or developmental delays; or ( )

**d.** The child marries, dies, or enters the military. ( )

**03. Suspension of Guardianship Assistance**. Guardianship assistance monthly cash payments will be suspended if the child is placed in foster care in any state. Benefits will be reinstated upon the child's reunification with the legal guardian(s). ( )

**927. ADMINISTRATIVE REVIEW FOR GUARDIANSHIP ASSISTANCE.**
The prospective legal guardian has twenty-eight (28) days from the date of the department's notification of the

guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The department will notify the individual, by mail, of the FACS Division Administrator's decision, of their right to appeal, and procedures for filing an appeal. ( )

**923~~3~~8. -- 999. (RESERVED)**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 – CHILD AND FAMILY SERVICES

## DOCKET NO. 16-0601-2402

## NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section 56-202, Idaho Code, as well as 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209, 39-1210, 39-1211, 39-5603, 39-7501, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

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

The proposed rule, promulgated under this Docket No. 16-0601-2402 by the Department of Health and Welfare, was published in the June 5, 2024 Administrative Bulletin, Vol. 24-8 pages 29 through 36. This Notice of Rulemaking hereby vacates the proposed rulemaking.

The proposed rulemaking is being vacated as the changes were incorporated into the ZBR chapter which is also being published in this bulletin under docket 16-0601-2401. The temporary rulemaking will stay in effect until *sine die* of the 2025 Idaho Legislature. At that point, if the proposed ZBR chapter is approved the edits made in the temporary rule will continue to be in effect as they have been incorporated into that docket.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of proposed rulemaking, contact Jared Larsen at 208-334-5500.

DATED this 6th day of August, 2024.

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# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 – CHILD AND FAMILY SERVICES

## DOCKET NO. 16-0601-2404

## NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 6, 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 56-202, Idaho Code, as well as Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209, 39-1210, 39-1211, 39-5603, 39-7501, 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 adds protections for children visiting their biological parents who have been substantiated for crimes including sexual and physical abuse. These added protections put the best interest of the child first and foremost.

**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:

The health and safety of the children of the State of Idaho is central to the mission of the Department of Health and Welfare. This temporary rule is necessary to establish safeguards and restrictions around the interaction of children and their parents who have been substantiated for sexual and physical actions.

**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:

Fees will not be increased as a result of this rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Jared Larsen at 208-334-5500.

DATED this 6th day of August, 2024.

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2404**
**(Only Those Sections With Amendments Are Shown.)**

## 16.06.01 – CHILD AND FAMILY SERVICES

### 050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes. (3-15-22)

**01. Reasonable Efforts**. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. (3-15-22)

**a.** Efforts to prevent or eliminate the need for a child to be removed from their home; (3-15-22)

**b.** Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (3-15-22)

**c.** Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (3-15-22)

**02. Active Efforts**. The efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. (3-15-22)

**03. ICWA Placement Preferences**. (3-15-22)

**a.** When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. (3-15-22)

**b.** When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. (3-15-22)

**c.** When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. (3-15-22)

**04. Least Restrictive Setting**. Efforts will be made to ensure that any child in the Department's care resides in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. (3-15-22)

**05. Legal Requirements for Indian Children**. When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

**06. Visitation for Child's Parent(s) or Legal Guardian(s).** ~~Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety.~~ The Department should determine the scope, duration, and manner of visitation that best promotes the best interest of the child and ensures that visitation does not impair the physical or mental health of a child. In-person visitation arrangements between a child and a parent who has been substantiated at a Level One or Two by the Department for one (1) of the following: sexual abuse, sexual exploitation, or physical abuse will not be granted unless it is in the best interest of the child and the child's physical and/or mental health will not be impaired. If in-person visitation is granted, it will only occur under the following conditions: ~~(3-15-22)~~(8-6-24)T

**a.** Approved by a program manager, after consultation with the child's guardian ad litem, where applicable, who concludes that in-person visitation is in the best interest of the child and that the child's physical and/or mental health will not be impaired; (8-6-24)T

**b.** Under conditions set forth by the program manager. Conditions of supervised visitation will include the following: (8-6-24)T

i. The parent will not be left alone with the child for any reason, including restroom breaks; (8-6-24)T

ii. For sexual abuse and exploitation cases, the parent will not allow the child to sit on his or her lap; (8-6-24)T

iii. The parent will not be allowed to engage in secret conversations or other communication that cannot be monitored in real time; (8-6-24)T

**c.** The best interest decision and visit conditions are documented and explained in writing. (8-6-24)T

**07. Notification of Change in Placement**. Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe. (3-15-22)

**08. Notification of Change in Visitation**. Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (3-15-22)

**09. Notification of Right to Participate and Appeal**. Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (3-15-22)

**10. Qualified Expert Witness--ICWA**. The testimony of an expert witness is required at the hearing in which a child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-15-22)

**a.** A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-15-22)

**b.** An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or (3-15-22)

**c.** A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community. (3-15-22)

**11. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996**. (3-15-22)

**a.** The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. (3-15-22)

**b.** The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; (3-15-22)

**c.** To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; (3-15-22)

**d.** A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; (3-15-22)

**e.** Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and (3-15-22)

**f.** Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (3-15-22)

**12. Family Decision-Making and Plan Development**. (3-15-22)

**a.** A family plan will be completed within thirty (30) days of the date the case was opened. (3-15-22)

**b.** Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-15-22)

**c.** Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-15-22)

**13. Compelling Reasons**. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. (3-15-22)

**a.** These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. (3-15-22)

**b.** A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. (3-15-22)

**c.** When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (3-15-22)

**14. ASFA Placement Preferences**. The following placement preferences will be considered in the order listed below when recommending and making permanency decisions: (3-15-22)

**a.** Return home if safe to do so; (3-15-22)

**b.** Adoption or legal guardianship by a relative or kin; (3-15-22)

**c.** Adoption or legal guardianship by non-relative; (3-15-22)

**d.** Another planned permanent living arrangement such as long-term foster care. (3-15-22)

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.02 – FOSTER CARE LICENSING

## DOCKET NO. 16-0602-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 16-0602-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 39 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 39**, IDAPA 16.06.02, "Foster Care Licensing," the amendment to Section 402, Subsection 02, only, adopted as a pending rule under Docket Number **16-0602-2301**, is not consistent with legislative intent because subjective criteria is not provided for in Idaho Code and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 402 (renumbered and codified now as Section 201) is reprinted here as affected by HCR 39 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 2024.

Brad Hunt
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Division of Financial Management
P.O. Box 83720
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adminrules@dfm.idaho.gov

**The pending rule adopted under this docket was partially rejected by HCR 39.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

**[*402*]201.FOSTER PARENT QUALIFICATIONS AND SUITABILITY.**
Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family, and homes. An applicant for licensure as a foster parent must meet the following: (7-1-24)

**01.** **Age**. Be twenty-one (21) years old or older. (7-1-24)

**02.** ***~~Be of Good~~*** **Character**. *Be of good character.* *(3-28-23)*

**03. Communication**. Be able to communicate with the child, the licensing agency, and health care and other service providers. (7-1-24)

**04. Personal Attributes and Experiences**. Have the maturity, interpersonal qualities, temperament, and life experiences that prepare the foster parent to provide foster care. (7-1-24)

**05. Availability for Child Placement**. Express a willingness to provide care for the kind of children the children's agency has available for placement. (7-1-24)

**06. Knowledge and Skill**. Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. (7-1-24)

**07. Child Care and Supervision**. Have adequate time to provide care and supervision for children. (7-1-24)

**08. 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)

**09. Health**. Have the physical, intellectual, and emotional health to assure appropriate care of children. (7-1-24)

**10. Harmonious Home Life**. Establish and maintain a harmonious home life to give 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. (7-1-24)

**11. Literacy**. At least one (1) adult caretaker in the home must have functional literacy. (7-1-24)

**12. Acceptance of Foster Children**. Demonstrate a willingness and ability to accept a child into the home as a member of the family. (7-1-24)

**13. Family Supports**. Demonstrate a willingness and ability to work with a foster child's legal family, future family, relatives, or Indian tribe. (7-1-24)

**14. Compliance**. Demonstrate a willingness and ability to comply with these rules. (7-1-24)

**15. Illegal Substance**. Foster parents will not use any illegal substances, abuse alcohol by consuming it in excessive amounts, or abuse legal prescription or nonprescription drugs, or both, by consuming them in excessive amounts or using them contrary to medication instructions. (7-1-24)

**16. Nicotine Use**. Foster parents and their guests will not smoke or vape 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)

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.02 – FOSTER CARE LICENSING

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

## NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3rd, 2024 Idaho Administrative Bulletin, Vol. 24-7, pages 91 and 92.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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:

There will not be a negative fiscal impact greater than $10,000.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jared Larsen at 208-334-5500.

DATED this 17th day of July, 2024.

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# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.02 – FOSTER CARE LICENSING

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

## NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3rd, 2024 Idaho Administrative Bulletin, Vol. 24-7, pages 93 through 106.

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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:

There will not be a negative fiscal impact greater than $10,000.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jared Larsen at 208-334-5500.

DATED this 17th day of July, 2024.

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# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.02 – FOSTER CARE LICENSING

## DOCKET NO. 16-0602-2403

## NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 15th, 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 September 18th, 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 change allows individuals who have been a licensed foster parent in the last 12 months, but has let their license lapse, renew their foster license with a fast-tracked process so long as they were in good standing while licensed.

**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:

There has been a demonstrated need to increase the number of resource families in the foster system throughout the state. Achieving a higher ratio of eligible foster families to foster kids in need has become the top priority of the Department. This change is needed to help support that mission, and in doing so also reduces the regulatory burden imposed by the state.

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

Fees will not be increased as a result of this rulemaking.

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

There will not be a negative fiscal impact exceeding $10,000.

**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.

**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 Jared Larsen, 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 September 25th, 2024.

DATED this 15th day of August, 2024.

Alex J. Adams, PharmD, MPH
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 16-0602-2403**
**(Only Those Sections With Amendments Are Shown.)**

## 16.06.02 – FOSTER CARE LICENSING

**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 judgment 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

**08. Reactivating an Idaho License**. If less than twelve (12) months has elapsed from the last licensed foster home visit required by Section 39-1217, Idaho Code, the Department may fast-track reactivating the license if the prior licensee: (8-15-24)T

**a.** Relinquished the license in good standing; and (8-15-24)T

**b.** Attests to maintaining conformity with the standards established by the Department. (8-15-24)T

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.06.05 – ALLEGED MEDICAL NEGLECT OF DISABLED INFANTS

## DOCKET NO. 16-0605-2401 (CHAPTER REPEAL)

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Section 56-1003, 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 September 18, 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:

This proposed rule repeals IDAPA 16.06.05 because nearly all regulations in this chapter are already repeated in 16.06.01. The remaining rules exclusive to this chapter have been proposed to be included in chapter rewrite of 16.06.01, thus by repealing this chapter, only duplicative regulations are eliminated.

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

Fees will not be increased by the elimination of this chapter.

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

There will not be an impact to the general fund greater than $10,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted as this is a repeal of the chapter and the agency deems negotiated rulemaking as not necessary.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jared Larsen at 208-334-5500.

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 September 25, 2024.

DATED this 11th day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
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**IDAPA 16.06.05 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.**

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.07.37 – CHILDREN'S MENTAL HEALTH SERVICES

## DOCKET NO. 16-0737-2401 (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 Section 56-202, Idaho Code, and Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code.

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

| **VIRTUAL TELECONFERENCE Via WebEx** |
|---|
| **Tuesday, September 17, 2024**<br>**10:00-11:00 a.m. (MT)** |
| **Join from the meeting link**<br>**https://idhw.webex.com/idhw/j.php?MTID=m11933a531a680e487e4331b21ac72d79**<br><br>**Join by meeting number**<br>**Meeting number (access code): 2821 443 5081**<br>**Meeting password: tM3J3VMNW9P (86353866 when dialing from a phone or video system)**<br><br>**Join by phone**<br>**+1-415-527-5035,,28214435081#86353866# United States Toll**<br>**+1-303-498-7536,,28214435081#86353866# United States Toll (Denver)** |

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:

Under Executive Order 2020-01: Zero-Based Regulation, the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language.

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

Fees will not be increased by this rulemaking.

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

There will not be a negative fiscal impact exceeding $10,000 by 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 February 7th,

2024 Idaho Administrative Bulletin, Volume 24-2, and was later published in the March 6th, 2024 Idaho Administrative Bulletin, Volume 24-3. Negotiated Rulemaking was conducted on March 13th and March 20th.

**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 Jared Larsen at 208-334-5500.

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 September 25th, 2024.

DATED this 31st day of July, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0737-2401**
**(ZBR Chapter Rewrite)**

## 16.07.37 – CHILDREN'S MENTAL HEALTH SERVICES

**000. LEGAL AUTHORITY.**
Under Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code, the Idaho Legislature has delegated to the Department the responsibility to establish and enforce rules and methods of administration needed to provide children's mental health services in accordance with the Children's Mental Health Services Act. (3-17-22)

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title.** These rules are titled IDAPA 16.07.37, "Children's Mental Health Services." (3-17-22)~~

~~**02. Scope.**~~ This chapter sets the standards for providing ~~defines the appeal process, scope of services, eligibility criteria, and application requirements for the provision of~~ children's mental health services by the Department. ~~(3-17-22)~~( )

**002. (RESERVED)**

**003. ADMINISTRATIVE APPEALS.**

**01. Appeal from a Denial Based on Eligibility Criteria**. Administrative appeals from a denial ~~of children's mental health services based on the eligibility~~ pursuant to criteria ~~under~~ in Section 107 of these rules are governed by the provisions of IDAPA 16.05.03, "~~Rules Governing~~ Contested Case Proceedings and Declaratory Rulings." ~~(3-17-22)~~( )

~~02. Grievances and Expedited Hearings. Grievances and expedited hearings related to non-Medicaid Youth Empowerment Services (YES) will be provided as described in IDAPA 16.05.03 "Rules Governing Contested Case Proceeding and Declaratory Ruling," Sections 750 and 751. (3-17-22)~~

~~03. Appeal of Decision Based on Clinical Judgment. All decisions involving clinical judgment, which may include the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with Maresh v. State, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (3-17-22)~~

**004. INCORPORATION BY REFERENCE.**
American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Test Revision (DSM-5-TR), Washington, D.C., American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, ~~1000 Wilson Boulevard~~ 800 Maine Avenue, S.W Suite ~~1825~~ 900, ~~Arlington, VA~~ Washington, DC ~~22209-3901~~ 20024. ~~A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702.~~ ~~(3-17-22)~~( )

**005. -- 008. (RESERVED)**

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

**01. ~~Compliance with Department~~ Criminal History and Background Check.** ~~Department~~ All employees, applicants, ~~transfers, reinstated former employees,~~ student interns, contract employees, volunteers, and others assigned to programs ~~that involve direct contact with children or vulnerable adults as defined under Section 39-5302, Idaho Code,~~ of children's mental health services must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." ~~(3-17-22)~~( )

**02. Availability to Work or Provide Service**. Certain individuals are allowed to provide services after the criminal history and background check is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history and background check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (3-17-22)

**010. DEFINITIONS ~~AND ABBREVIATIONS A THROUGH E~~.**
~~For the purposes of these rules,~~ In addition to Section 16-2403, Idaho Code, the following terms apply: ~~(3-17-22)~~( )

**01. Alternate Care**. Temporary living arrangements outside the family home that may include licensed foster care, residential treatment, and other facilities licensed by the state to provide twenty-four (24) hour care for children in accordance with IDAPA 16.06.02, "Child Care Licensing," or IDAPA 16.03.14, "Hospitals." (3-17-22)

~~02. Alternate Care Plan. A component of the treatment plan for children in alternate care. The alternate care plan contains elements related to the justification of the need for Alternate Care Placement, the provision of treatment while in Alternate Care Placement, the child's alternate care provider, education, immunization, medical and other information important to the day-to-day care of the child. (3-17-22)~~

~~03. Area(s) of Concern. A circumstance or circumstances that brought a child and family to the attention of the Department. (3-17-22)~~

**042. Clinical Assessment**. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify the child's mental health issues, the child's strengths, the family's strengths, and the service needs. (3-17-22)

~~05. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. (3-17-22)~~

~~06. Case Management. A change-oriented service provided to families that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case.~~ ~~(3-17-22)~~

~~07. Case Record. Compilation of all electronic and hard copy documentation relating to a child who is receiving or has received children's mental health services including legal documents, identifying information, and assessments.~~ ~~(3-17-22)~~

~~08. Child. An individual who is under the age of eighteen (18) years.~~ ~~(3-17-22)~~

~~09. Children's Mental Health Services. The children's mental health services are listed under Section 100 of these rules. These services are provided in response to the mental health needs of children eligible for services under Section 107 of these rules and their families in accordance with the provisions of the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code.~~ ~~(3-17-22)~~

~~10~~03. **Clinician**. Any of the direct service personnel with a Master's degree working in regional Children's Mental Health programs, including master's level social workers, psychologists, counselors, and family therapists. (3-17-22)

~~11~~04. **Crisis Intervention Services**. A set of planned activities for a~~ child eligible for services under Section 107 of these rules~~ designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. ~~(3-17-22)~~( )

~~12. Crisis Plan. As part of the treatment plan, the individualized crisis plan is developed to prevent a crisis or prepare for a crisis situation and to keep the child and others safe. The crisis plan may include the child's trigger behaviors, preferred strategies for resolving a crisis, interventions to be avoided, and contact information of community resources and natural supports.~~ ~~(3-17-22)~~

~~13. Crisis Response. A service for a child that involves immediate actions taken to assess risk or intervene in an emergency as defined in Section 16-2403(6), Idaho Code. A determination of eligibility under Section 107 of these rules is not required for crisis response.~~ ~~(3-17-22)~~

~~14. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational, and family interventions provided on a regularly scheduled, typically daily, basis.~~ ~~(3-17-22)~~

~~15. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Behavioral Health Authority under Section 39-3123, Idaho Code.~~ ~~(3-17-22)~~

~~16~~05. **Desired Result**. Behaviorally-specific description of the child's and family's circumstances when the factors that brought the child and family to the Department's attention, either no longer exist or are significantly reduced. (3-17-22)

~~17~~06. **Director**. The Director of the Idaho Department of Health and Welfare or their designee. (3-17-22)

~~18. Emergency. Emergency, as defined in Section 16-2403(6), Idaho Code, means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, their family or others, or poses a serious risk of substantial deterioration in the child's condition that cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in their family home.~~ ~~(3-17-22)~~

~~19. Extended Family Member of an Indian Child. As defined by the law or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.~~ ~~(3-17-22)~~

**07. Eligibility Screening**. The collection and review of information directly related to the applicant's mental health and level of functioning, which the Department uses to determine whether an applicant is eligible for children's mental health services available through the Department's Division of Behavioral Health. ( )

~~**011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.**~~
~~For the purposes of these rules, the following terms apply:~~ ~~(3-17-22)~~

~~**01. Face-to-Face Contact**. An interaction between Department staff and another individual. The interaction may occur in-person or by electronic means that includes both audio and visual technology that comply with HIPAA and 42 CFR Part 2.~~ ~~(3-17-22)~~

~~**02. Family**. A family is two (2) or more persons related by blood, marriage, or adoption.~~ ~~(3-17-22)~~

~~**03. Family Support Services**. Assistance provided to a family to assist them in caring for a child eligible for services under Section 107 of these rules. The purpose of family support services is to strengthen adults in their role as parents through the provision of services including: assistance with transportation, family counseling services, training, education, and emergency assistance funds in accordance with IDAPA 16.06.13, "Emergency Assistance for Families and Children." Family support services must be on the treatment plan.~~ ~~(3-17-22)~~

~~**04. Federal Poverty Guidelines**. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at http://aspe.hhs.gov/poverty/.~~ ~~(3-17-22)~~

~~**05. Guardian**.~~ ~~(3-17-22)~~

~~**a.** As set forth under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of their minor and unemancipated child; or~~ ~~(3-17-22)~~

~~**b.** The Department, an agency, or an individual, other than a parent, who is acting in the place of a parent (in loco parentis) or, has assumed legal responsibility for, legal custody of, or control of a child.~~ ~~(3-17-22)~~

~~**06. 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 USC 1606.~~ ~~(3-17-22)~~

~~**07. Indian Child**. Any unmarried person who is under the age of eighteen (18) who is:~~ ~~(3-17-22)~~

~~**a.** A member of an Indian tribe; or~~ ~~(3-17-22)~~

~~**b.** Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.~~ ~~(3-17-22)~~

~~**08. Indian Child Welfare Act (ICWA)**. The Indian Child Welfare Act, 25 USC 1901, et seq.~~ ~~(3-17-22)~~

~~**09. Indian Child's Tribe**.~~ ~~(3-17-22)~~

~~**a.** The Indian tribe in which an Indian child is a member or eligible for membership; or~~ ~~(3-17-22)~~

~~**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.~~ ~~(3-17-22)~~

~~**10. 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 USC 1602(c).~~ ~~(3-17-22)~~

~~**11. Inpatient Services**. Mental health and medical services provided to a child admitted to a~~

~~psychiatric hospital.~~ ~~(3-17-22)~~

**011. (RESERVED)**

**012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**
For the purposes of these rules, the following terms apply: (3-17-22)

~~**01. Licensed**. Facilities or programs that are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing," or hospitals licensed in accordance with IDAPA 16.03.14, "Hospitals."~~ ~~(3-17-22)~~

~~**02. Medicaid**. Idaho's Medical Assistance Program administered under Title XIX of the Social Security Act.~~ ~~(3-17-22)~~

~~**03. Outpatient Services**. Mental health services provided to a child who is not admitted to a psychiatric hospital or in a residential treatment setting.~~ ~~(3-17-22)~~

0**4**1. **Parent**. A person who, by birth or through adoption, is considered legally responsible for a child. The term "guardian" is not included in the definition of parent. (3-17-22)

0~~5~~2. **Placement Agreement**. A standardized, written agreement, signed by the Department and a parent or guardian, that outlines specific responsibilities of each party regarding the child's placement in alternate care. (3-17-22)

~~**06. Residential Treatment**. A treatment facility licensed as a children's residential care facility that provides twenty-four (24) hour care in a highly-structured setting delivering substitute parental care and mental health services.~~ ~~(3-17-22)~~

~~**07. Respite Care**. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a caregiver different from the child's usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days.~~ ~~(3-17-22)~~

~~**013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.**~~
~~For the purposes of these rules, the following terms apply:~~ ~~(3-17-22)~~

~~**01. Sliding Fee Scale**. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."~~ ~~(3-17-22)~~

~~**02. Teens at Risk**. Individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder.~~ ~~(3-17-22)~~

~~**03. Teen Early Intervention Specialist**. A person with a master's degree in social work, psychology, marriage and family therapy, counseling, chemical dependency, addictive studies, psychiatric nursing, or very closely-related field of study contracted to work with teens at risk.~~ ~~(3-17-22)~~

~~**04. Title XIX (Medicaid)**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources.~~ ~~(3-17-22)~~

~~**05. Treatment Foster Care**. A service that provides clinical intervention for children eligible for services under Section 107 of these rules within the private homes of trained, licensed foster families.~~ ~~(3-17-22)~~

~~**06. Treatment Plan**. The individualized treatment plan describes the child's strengths and needs, short and long-term treatment goals, desired outcomes, and the roles, strategies, resources, and timeframes for coordinated implementation of services and supports. The plan is developed with the child, when possible, and the child's parent or guardian. The treatment plan includes a crisis plan and plans for transitioning out of services or to adult services.~~

~~The treatment plan also includes the alternate care plan, if the child is in alternate care.~~ ~~(3-17-22)~~

~~**07. Wraparound**. Wraparound is a planning process that brings together a team of professionals and citizens working together to support children eligible for services under Section 107 of these rules and their families. Members of the team include the child, family members, representatives of public and private agencies, civic groups, and other community members. The services and supports focus on the strengths of the child and family, are provided in the local community, and are customized to fit the individual culture of the family.~~ ~~(3-17-22)~~

**0143. -- 099. (RESERVED)**

## CHILDREN'S MENTAL HEALTH SERVICES
## (Sections 100-199)

~~**100. CHILDREN'S MENTAL HEALTH SERVICES.**~~
~~The Department is the lead agency in establishing and coordinating community supports, services, and treatment for children eligible for services under Section 107 of these rules and their families. The following services, as defined under Sections 010 through 013 of these rules, are provided by or through Children's Mental Health field offices in each region:~~ ~~(3-17-22)~~

~~**01. Assessment**.~~ ~~(3-17-22)~~

~~**02. Case Management**.~~ ~~(3-17-22)~~

~~**03. Crisis Response**.~~ ~~(3-17-22)~~

~~**04. Day Treatment Services**.~~ ~~(3-17-22)~~

~~**05. Family Support Services**.~~ ~~(3-17-22)~~

~~**06. Inpatient Services**.~~ ~~(3-17-22)~~

~~**07. Outpatient Services**.~~ ~~(3-17-22)~~

~~**08. Residential Treatment**.~~ ~~(3-17-22)~~

~~**09. Respite Care**.~~ ~~(3-17-22)~~

~~**10. Treatment Foster Care**.~~ ~~(3-17-22)~~

~~**11. Wraparound**.~~ ~~(3-17-22)~~

~~**101. TEENS AT RISK PROGRAM.**~~
~~The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract.~~ ~~(3-17-22)~~

~~**01. Application**. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation.~~ ~~(3-17-22)~~

~~**02. Contracting Process**.~~ ~~(3-17-22)~~

~~a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs.~~ ~~(3-17-22)~~

~~b. The number of school districts awarded a Teens at Risk program will depend upon the amount of specific funding appropriated by the legislature for this program.~~ ~~(3-17-22)~~

~~c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program.~~ ~~(3-17-22)~~

~~03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program.~~ ~~(3-17-22)~~

~~04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include:~~ ~~(3-17-22)~~

~~a. Teen arrests, detention, and commitments to state custody;~~ ~~(3-17-22)~~

~~b. Teen suicide rates;~~ ~~(3-17-22)~~

~~c. Impacts on juvenile mental health and drug courts;~~ ~~(3-17-22)~~

~~d. Access to mental health services; and~~ ~~(3-17-22)~~

~~e. Academic achievement and school disciplinary actions.~~ ~~(3-17-22)~~

**10~~2~~0. -- 104. (RESERVED)**

**105. ACCESSING CHILDREN'S MENTAL HEALTH SERVICES.**
Children's mental health services administered by the Department's Division of Behavioral Health may be accessed either through an eligibility screening ~~application for services~~ or through a court order for services. ~~An application for services must be signed by a child's parent or guardian.~~ ~~(3-17-22)~~( )

**106. ELIGIBILITY SCREENING AND MENTAL HEALTH ASSESSMENT.**
~~Once an application has been signed or a court order has been received for children's mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be documented using the Department's Idaho Standard Mental Health Assessment Report at http://www.healthandwelfare.idaho.gov. A Department clinician will either complete a mental health assessment, or, at the Department's discretion, accept an assessment completed by another mental health professional. In order to be considered, assessments completed by other mental health professionals must have occurred within ninety (90) days prior to the date of application or court order. The Department clinician will gather additional information, as needed, in order to complete the assessment process~~The eligibility screening must be directly related to the individual's mental illness and level of functioning and is based on the eligibility criteria under section 107 of this rule. Once an individual is found eligible for children's mental health services, the individual will be authorized for a clinical assessment from a treatment provider in the Division of Behavioral Health's network to determine level of care.
~~(3-17-22)~~( )

**107. ELIGIBILITY DETERMINATION.**

**01. ~~The Department Determines~~ Determination of Eligibility for Mental Health Services**. The total number of children who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. ~~(3-17-22)~~( )

**02. Eligibility Requirements**. To be eligible for voluntary children's mental health services ~~through a voluntary application to the Department,~~ the ~~applicant~~ individual must: ~~(3-17-22)~~( )

**a.** Be under eighteen (18) years of age; (3-17-22)

**b.** Reside within the state of Idaho; (3-17-22)

**c.** Have a DSM-5-TR mental health diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible mental health diagnosis, although one (1) or more of these conditions may co-exist with an eligible mental health diagnosis; and ~~(3-17-22)~~( )

**d.** Have a substantial functional impairment as assessed by using the Department's approved tool. (3-17-22)

**03. Court-Ordered Assessment, Treatment, and Services**. ~~The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code.~~ Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. Parents or guardians retain custody of the child. ~~(3-17-22)~~( )

**04. Ineligible Conditions**. A child who does not meet the requirements under Subsections 107.02 or 107.03 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. (3-17-22)

**108. -- 109. (RESERVED)**

**110. NOTICE OF DECISION ON ELIGIBILITY.**

**01. Notification of Eligibility Determination**. The Department will determine the child's eligibility for children's mental health services, in accordance with Section 107 of these rules, within thirty (30) calendar days of receipt of a signed application for services. Within five (5) working days of the determination of eligibility, the Department will send written notification to the child's parent or guardian of the eligibility determination. The written notice will include: (3-17-22)

**a.** The child's name and identifying information; (3-17-22)

**b.** A statement of the decision; (3-17-22)

**c.** A concise statement of the reasons for the decision; and (3-17-22)

**d.** The process for pursuing an administrative appeal regarding eligibility determinations. (3-17-22)

**02. Parental Rights**. If the Department determines that an applicant is eligible for children's mental health services through the Department, the Department clinician must inform the child's parent or guardian that they have the right to reject the services offered by the Department, unless imposed by court order. (3-17-22)

**03. Other Information that Must be Provided to the Parent**. The clinician must also inform the parent that fees may be incurred for certain services, in accordance with IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and that a parent has financial responsibility for the child. (3-17-22)

~~**04. Reapplication for Mental Health Services**. If the Department determines that a child is not eligible for children's mental health services through the Department, the child's parent or guardian may reapply after six (6) months or at any time upon a showing of a substantial, material change in circumstances. (3-17-22)~~

~~**111. -- 114. (RESERVED)**~~

~~**115. TREATMENT PLAN.**~~
~~A treatment plan will be developed by the Department, a parent or guardian, and the child, if appropriate, and may include the service provider or service providers. This plan will be specific, measurable, and realistic in the identification of the goal(s), relevant areas of concern, and desired results. (3-17-22)~~

~~**01. Development of Treatment Plan**. A treatment plan will be completed within fifteen (15) days of the date the child was determined eligible for children's mental health services. The parent or guardian must be given the opportunity to participate in the development of the treatment plan and sign it. The parent or guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures, indicating participation in the development of the treatment plan are not obtained, the reason the signatures were not obtained must be documented in the record, including the reason for the parent's or guardian's refusal to sign. If the services are court-ordered and the parent or guardian refuses to sign the plan, the refusal must also be documented on the plan. If the services are voluntary and the parent or guardian refuses to sign the plan, the Department may close the case. (3-17-22)~~

~~**02. Annual Development of Treatment Plan**. The Department will develop a plan at least annually. The parent or guardian will be given the opportunity to participate in the annual development of the treatment plan and to sign it. (3-17-22)~~

~~**03. One Hundred Twenty Day Review**. Treatment plans are to be reviewed with the family at least once every one hundred twenty (120) days. (3-17-22)~~

~~**04. Goals and Tasks**. Treatment plans must include a long-term goal that identifies specific behavior changes, have measurable desired results, and have specific tasks that identify by whom, how, and when the tasks will be completed. (3-17-22)~~

**111. -- 115. (RESERVED)**

**116. OUTCOMES FOR CHILDREN'S MENTAL HEALTH SERVICES.**
Outcomes for children's mental health services are measured through the administration of a satisfaction survey and the Department-approved standardized functional assessment tool. (3-17-22)

~~**117. CASE RECORDS.**~~

~~**01. Electronic and Physical Files**. The Department must maintain an electronic file and a physical file containing information on each child receiving children's mental health services. The physical file may include non-electronic documentation such as originals or copies of all court orders, birth certificates, social security cards, and assessment information that originates outside the Department. (3-17-22)~~

~~**02. Storage of Records**. All physical case records must be stored in a secure file storage area away from public access, and retained not less than five (5) years after the case is closed, after which they may be destroyed. (3-17-22)~~

~~**a.** Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (3-17-22)~~

~~**b.** Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (3-17-22)~~

~~118. USE OF PUBLIC FUNDS AND BENEFITS.~~
~~Public funds and benefits will be used to provide services for children eligible for services under Section 107 of these rules and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, the Department will arrange services to minimize the need for institutional or alternate care placement. Services will be individually planned with the family to meet the unique needs of each child and family. The Department will not require a parent or guardian to relinquish custody of the child in order to receive Department-funded services.~~ ~~(3-17-22)~~

117. -- 118. (RESERVED)

**119. FINANCIAL RESPONSIBILITY OF PARENT(S).**
Parent(s) of a child eligible for services under Section 107 of these rules who is receiving outpatient services either directly from the Department, or through Department contracts with private providers, are financially responsible for services provided to their child and to their family, including court-ordered children's mental health services. The financial responsibility for each service will be in accordance with the ability of parent(s) to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." Parent(s) will not incur a financial obligation for services provided to their child through a Teens at Risk program. (3-17-22)

~~120. SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.~~
~~The fee charged to parents for outpatient children's mental health services is determined using the sliding fee schedule under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 300.~~ ~~(3-17-22)~~

~~121. FEE DETERMINATION FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.~~
~~Prior to the delivery of outpatient services, a "Fee Determination" form must be completed by a child's parent when requesting children's mental health services. The fee determination process includes the considerations found under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 400.~~ ~~(3-17-22)~~

12~~2~~0. -- 199. (RESERVED)

## ALTERNATE CARE PLACEMENT
## (Sections 200-299)

**200. AUTHORITY FOR ALTERNATE CARE PLACEMENT.**
The Department may place a child into alternate care under either of the following conditions in Subsection 200.01 or 200.02 of this rule: (3-17-22)

**01. Court Order**. The Department may place a child into alternate care when the Department has been ordered by the Court to provide alternate care for a child and the services are medically necessary. ~~(3-17-22)~~( )

~~a. A placement agreement must be developed by the Department and the parent or guardian prior to the child's placement in alternate care.~~ ~~(3-17-22)~~

~~b. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks, and task responsibilities.~~ ~~(3-17-22)~~

~~c. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. If notice is given by the parent or guardian, the Department will notify the court.~~ ~~(3-17-22)~~

**02. Voluntary Placement**. The Department may place a child into alternate care with the Department when a parent or guardian is no longer able to maintain a child eligible for services under Section 107 of these rules in the child's home and the Department or its representative/contractor determines that ~~the child would benefit from alternate care and treatment~~ services are medically necessary. ~~(3-17-22)~~( )

~~a. A treatment plan, alternate care plan, and a placement agreement must be developed by the~~

~~Department and the parent or guardian prior to the child's placement in alternate care. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks and task responsibilities.~~ ~~(3-17-22)~~

~~**b.** The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian.~~ ~~(3-17-22)~~

**201. PROTECTIONS FOR CHILDREN IN ALTERNATE CARE.**

~~**01. Statutory Requirements**. The Department must arrange alternate care in accordance with the protections established in:~~ ~~(3-17-22)~~

~~**a.** The Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code;~~ ~~(3-17-22)~~

~~**b.** The Child Protective Act, Title 16, Chapter 16, Idaho Code; and~~ ~~(3-17-22)~~

~~**c.** The Indian Child Welfare Act, 25 USC 1901, et seq.~~ ~~(3-17-22)~~

0~~2~~1. **Requirement for Licensure**. A child that is placed in alternate care must be placed in a licensed foster home, licensed residential care facility, or in a licensed hospital. (3-17-22)

~~**03. Out-of-State Placement**. Placement of a child in an alternate care setting outside the state of Idaho requires that the Department comply with the Interstate Compact on the Placement of Children, in accordance with Section 16-2102, Idaho Code.~~ ~~(3-17-22)~~

0~~4~~2. **Least Restrictive Setting**. Whenever possible, the Department will arrange placement: (3-17-22)

**a.** In the least restrictive setting available that will meet the child's mental health treatment needs; and (3-17-22)

**b.** That is in close proximity to the parent or guardian. (3-17-22)

**c.** If the placement does not meet the requirements of Subsections 201.04.a. and 201.04.b. of this rule, the Department or its representative/contractor will provide written justification to the child's parent or guardian by way of the Alternate Care Plan that the placement is in the best interests of the child. ~~(3-17-22)~~( )

0~~5~~3. **Visitation for Child's Parent or Guardian**. Visitation arrangements~~ will be documented in the alternate care plan~~ must be documented in their member record and documented in the Department or their representative/contractor's care management system. ~~(3-17-22)~~( )

~~**06. Notification to Parents or Guardians of Change in Placement.**~~ ~~(3-17-22)~~

~~**a.** The Department will provide written notification to the child's parent or guardian no later than seven (7) days after a child's change of placement.~~ ~~(3-17-22)~~

~~**b.** If an Indian child under jurisdiction of the court is relocated to another alternate care setting, similar notice must be sent to the child's Indian custodian, and the child's tribe. Wherever these rules require notice to the parent or custodian and tribe of an Indian child, notice must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, under 25 CFR Section 23.11, copies of such notices must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice of the proceeding must be given to the Secretary, who will provide notice to the parent or Indian custodian and tribe.~~ ~~(3-17-22)~~

**202. (RESERVED)**

**203. DATE A CHILD ENTERED ALTERNATE CARE.**

A child is considered to have entered alternate care on the date the child is actually placed in an alternate care setting. All alternate care benefits, eligibility determinations, and required reviews are based on the date the child entered alternate care. (3-17-22)

~~**204. TITLE XIX ELIGIBILITY.**~~
~~Children placed in alternate care through the Department are eligible for Title XIX, if they meet the eligibility requirements as defined in IDAPA 16.06.01, "Child and Family Services." Application for these programs will be made by Department clinicians on the forms and in the manner prescribed by the Department's Division of Family and Community Services.~~ ~~(3-17-22)~~

**204. (RESERVED)**

**205. ALTERNATE CARE LICENSURE.**
All private homes and facilities in Idaho providing alternate care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Child Care Licensing;" ~~unless foster care placement of an Indian child is made with a foster home licensed, approved, or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization~~. ~~(3-17-22)~~( )

~~**206. ALTERNATE CARE CASE MANAGEMENT.**~~
~~Case management must continue while the child is in alternate care and include the following:~~ ~~(3-17-22)~~

~~**01. Preparation for Placement**. Preparing a child for placement in alternate care is the joint responsibility of the child's parent or guardian, the child (when appropriate), the clinician and the alternate care provider.~~ ~~(3-17-22)~~

~~**02. Information for Alternate Care Provider**. The Department and the child's parent or guardian must inform the alternate care provider of the alternate care provider's roles and responsibilities in meeting the needs of the child and provide the following information to the alternate care provider:~~ ~~(3-17-22)~~

~~**a.** Any medical, health, and dental needs of the child including the names and addresses of the child's doctor, dentist, and other health providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child;~~ ~~(3-17-22)~~

~~**b.** The child's current functioning and behaviors;~~ ~~(3-17-22)~~

~~**c.** The child's history, past experiences, and reasons for placement into alternate care;~~ ~~(3-17-22)~~

~~**d.** The child's cultural and racial identity;~~ ~~(3-17-22)~~

~~**e.** Any educational, developmental, or special needs of the child;~~ ~~(3-17-22)~~

~~**f.** Names and addresses of the child's current or last school attended, including homeschool or alternate school, if applicable;~~ ~~(3-17-22)~~

~~**g.** The child's interests and talents;~~ ~~(3-17-22)~~

~~**h.** The child's attachment to current caretakers;~~ ~~(3-17-22)~~

~~**i.** The individualized and unique needs of the child;~~ ~~(3-17-22)~~

~~**j.** Procedures to follow in case of emergency; and~~ ~~(3-17-22)~~

~~**k.** Any additional information that may be required to meet the needs of the child.~~ ~~(3-17-22)~~

~~**03. Consent for Medical Care**. A parent or guardian must sign a Departmental form of consent for medical care and keep the clinician advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the case record.~~ ~~(3-17-22)~~

**04. Financial Arrangements**. The Department is responsible for explaining the financial and payment arrangements to the alternate care provider and must complete the documentation required for payment to the alternate care provider. (3-17-22)

**05. Contact Requirements**. The child's parent or guardian, the clinician, the alternate care provider, and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits between the child and the family and the clinician or their designee. (3-17-22)

**a.** Face-to-face contact between the child and the clinician must occur at least monthly. An in-person visit must occur within the first thirty (30) days of placement and then the in-person visits must occur at a minimum of quarterly thereafter. (3-17-22)

**b.** Face-to-face contact between the child's parent or guardian and the clinician must occur at least monthly. (3-17-22)

**c.** Face-to-face contact between the alternate care provider and the clinician must occur at least monthly. (3-17-22)

**d.** Frequent and regular contact between the child, the child's parent or guardian, and other family members will be encouraged and facilitated unless it is specifically determined by the Department not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-17-22)

**e.** When a child is placed in alternate care in another state, a Department clinician must maintain at least monthly contact with the child, the child's family, and the alternate care provider with whom they have been placed as long as the state of Idaho has the placement responsibility for the child, in accordance with Section 200 of these rules. The supervising agency in the state where the child is living will be requested to maintain monthly, face-to-face contact with the child and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. (3-17-22)

**06. Transition Planning**. Planning for transition from alternate care will be developed with all concerned parties. Transition planning will be initiated at the time of placement and completed prior to the child's return home or to another living arrangement. A written Transition Plan is part of the Alternate Care Plan and the Treatment Plan. As part of transition planning, efforts are coordinated by the Department and the parents or guardians to expedite access to community and Department services. (3-17-22)

**207. – 221. (RESERVED)**

**222. ALTERNATE CARE PLANNING.**
Alternate care planning is mandated by the provisions of Sections 471(a)(15) and 475, P.L. 96-272. (3-17-22)

**01. Alternate Care Plan Required**. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (3-17-22)

**a.** The purpose of the plan is to facilitate the provision of mental health treatment services and the safe return of the child to their own home as expeditiously as possible, or to make other permanent arrangements for the child if such return is not feasible. (3-17-22)

**b.** The alternate care plan must be included as part of the treatment plan. (3-17-22)

**02. Written Alternate Care Plan**. The Department must have completed a written alternate care plan within thirty (30) days after a child has been placed in alternate care. (3-17-22)

**a.** A parent or guardian and the child, to the extent possible, are to be involved in planning, selecting, and arranging the alternate care placement and any subsequent changes in placement. (3-17-22)

~~**b.** The alternate care plan must include documentation that a parent or guardian has been provided written notification of:~~ ~~(3-17-22)~~

~~i. Visitation arrangements made with the alternate care provider, including any changes in their visitation schedule;~~ ~~(3-17-22)~~

~~ii. Any change of placement, when the child is relocated to another alternate care or institutional setting as soon as possible, but no later than seven (7) days after placement; and~~ ~~(3-17-22)~~

~~iii. Their right to discuss any changes and to seek recourse if they disagree with any changes in visitation or other alternate care arrangements.~~ ~~(3-17-22)~~

~~**c.** All parties involved in developing the alternate care plan, including the alternate care provider, parent or guardian, and the child, if of appropriate developmental age:~~ ~~(3-17-22)~~

~~i. Will be asked by the Department to sign the alternate care plan that includes a statement indicating that they have read and understood the alternate care plan; and~~ ~~(3-17-22)~~

~~ii. Will receive a copy of the alternate care plan from the Department.~~ ~~(3-17-22)~~

**2~~23~~06. -- 235. (RESERVED)**

**236. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.**
In accordance with Sections 56-203B and 16-2406, Idaho Code, parent(s) are responsible for costs associated with the care of their child in alternate care. (3-17-22)

~~**01. Notice of Parental Responsibility**. The Department will provide the parent(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs.~~ ~~(3-17-22)~~

~~**02. Financial Arrangements with Parent(s)**. Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental, and educational costs.~~ ~~(3-17-22)~~

~~**237. SUPPORT AGREEMENTS AND SUPPORT ORDERS.**~~

~~**01. Support Agreement for Voluntary Placement**. If the placement is voluntary, a parent must sign a support agreement that specifies the amount of support to be paid to the Department, when it is to be paid, and the address to which it is to be paid.~~ ~~(3-17-22)~~

~~**02. Support Order for Payment of Involuntary Placement Costs**. In the case of a court-ordered placement, if no support agreement has been reached with a parent prior to the court hearing, the Department may request the Court hold a support hearing to establish a support order for payment of involuntary placement costs.~~ ~~(3-17-22)~~

~~**238. -- 239. (RESERVED)**~~

~~**240. INSURANCE COVERAGE.**~~
~~The parent or guardian must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage is available for the child, the parent must acquire and maintain such insurance.~~ ~~(3-17-22)~~

~~**241. MEDICAL CARD FOR CHILDREN IN ALTERNATE CARE.**~~
~~The Department will issue a medical card to cover medical expenses for each child placed in alternate care.~~ ~~(3-17-22)~~

**242. – 243. (RESERVED)**

**244. MEDICAL EMERGENCIES.**
In case of serious illness, the alternate care provider must immediately seek medical attention for the child and notify the Department as soon as possible. A parent or guardian, the court in an emergency, or the Department, if it is the guardian of the child, has the authority to consent to major medical care or hospitalization in accordance with Section 39-4504, Idaho Code. (3-17-22)

**245. DENTAL CARE.**
Each child age three (3) years or older, who is placed in alternate care, must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (3-17-22)

**01. Costs Paid by Medicaid**. If dental care not included in the state medical assistance program is recommended, a request for payment will be submitted to the state Medicaid dental consultant. (3-17-22)

**02. Emergencies**. Emergency dental services will be provided for children in alternate care and paid for by the Department, if there are no other financial resources available. (3-17-22)

**246. COSTS OF PRESCRIPTION DRUGS.**
The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacies. (3-17-22)

**247. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.**
Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (3-17-22)

**248. – 250. (RESERVED)**

**251. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.**
Only a parent or guardian of a child in alternate care may authorize drivers' training, provide payment, and sign for drivers' licenses and permits. (3-17-22)

**252. – 282. (RESERVED)**

**283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.**
Monthly payments for care provided by family alternate care providers are paid according to IDAPA 16.06.01, "Child and Family Services." (3-17-22)

**01. Gifts**. Additional payments for Christmas gifts and birthday gifts will be paid in the appropriate months. (3-17-22)

**02. Clothing**. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-17-22)

**03. School Fees**. School fees due upon enrollment will be paid directly to the school or to the foster parents, based upon the Department's determination of the child's needs. (3-17-22)

**284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.**
For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid according to IDAPA 16.06.01, "Child and Family Services." The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. (3-17-22)

**01. Lowest Level of Need**. A child requiring a mild degree of care for documented conditions receives the lowest level of additional payments for the following: (3-17-22)

**a.** Chronic medical problems; (3-17-22)

**b.** Frequent, time-consuming transportation needs; (3-17-22)

**c.** Behaviors requiring extra supervision and control; and (3-17-22)

**d.** Need for preparation for independent living. (3-17-22)

**02. Moderate Level of Need**. A child requiring a moderate degree of care for documented conditions receives the moderate level of additional payments for the following: (3-17-22)

**a.** Ongoing major medical problems; (3-17-22)

**b.** Behaviors that require immediate action or control; and (3-17-22)

**c.** Alcohol or other substance use disorder. (3-17-22)

**03. Highest Level of Need**. A child requiring an extraordinary degree of care for documented conditions receives the highest level of additional payments for the following: (3-17-22)

**a.** Serious emotional or behavioral disorder that requires continuous supervision; (3-17-22)

**b.** Severe developmental disability; and (3-17-22)

**c.** Severe physical disability such as quadriplegia. (3-17-22)

**04. Reportable Income**. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (3-17-22)

**285. – 599. (RESERVED)**

**600. TREATMENT FOSTER CARE.**
A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children eligible for services under Section 107 of these rules is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgment of the Department. (3-17-22)

**01. Qualifications**. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-17-22)

**a.** Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; (3-17-22)

**b.** Complete Department-approved treatment foster care initial training; and (3-17-22)

**c.** Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-17-22)

i. Training related to, or experience working with, children or youth with mental illness or behavior

disorders; and (3-17-22)

ii. Demonstrated cooperation and a positive working relationship with families and providers of mental health services. (3-17-22)

**02. Continuing Education**. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (3-17-22)

**03. Availability**. At least one (1) treatment foster parent in each treatment family home must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-17-22)

**04. Payment**. The Department will pay treatment foster parents up to one thousand eight hundred ($1,800) dollars per month per child, which includes the monthly payment rate specified in Sections 283 and 284 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.06 of this rule. (3-17-22)

**05. Payment to Contractors**. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (3-17-22)

**06. Treatment Plan**. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible for each child in their care. This plan is incorporated as part of the treatment plan identified in Section 115 of these rules. (3-17-22)

**601. – 699. (RESERVED)**

**700. RESIDENTIAL CARE FACILITIES.**
Residential care facilities provide a more intensive setting than treatment foster care. Residential care facilities in Idaho are licensed under IDAPA 16.06.02, "Child Care Licensing" to provide residential care for children and staffed by employees who cover assigned shifts. Children placed in residential care facilities receive services that may include the following: assessment, supervision, treatment plan development and implementation, documentation, behaviorally focused skill building, service coordination or clinical case management, consultation, psychotherapy, psychiatric care, and twenty-four (24) hour crisis intervention. Placement into a residential care facility for children eligible for services under Section 107 of these rules is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (3-17-22)

**01. Prior Authorization**. Prior authorization must be obtained from an authorized representative in the Department's Division of Behavioral Health for placement of a child in a residential care facility where the Division of Behavioral Health is making full or partial payment. (3-17-22)

**02. Payment**. When care is purchased from private providers, payment will be made in accordance with a contract authorized by the Department, based on the needs of each child being placed and the services to be provided. (3-17-22)

**701. – 799. (RESERVED)**

**800. SIX MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENTS.**
A review is to occur at the end of a six (6) month period for any child in an alternate care placement. The Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the treatment plan focuses on the goals of safety, permanency, effectiveness of treatment, and well-being of the child. The Department may request the court hold a review hearing for the child in accordance with Section 16-2407(3), Idaho Code. (3-17-22)

**01. Notice of Six Month Review**. The parent or guardian, foster parent of a child, or relative providing care for the child is to be provided with notice of their right to be heard in the six (6) month review. In the case of an

~~Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice.~~ ~~(3-17-22)~~

~~**02. Procedure in the Six Month Review**. The parties who received notice will be given the opportunity to participate in the case review.~~ ~~(3-17-22)~~

~~**03. Members of Six Month Review Panel**. The six (6) month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent or guardian. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from an authorized representative in the Department's Division of Behavioral Health, to enable them to understand the review process and their roles as participants.~~ ~~(3-17-22)~~

~~**04. Considerations in Six Month Review**. Whether conducted by the court in a review hearing or a Department review panel, under state law, federal law and regulation, each of the following must be addressed in a six (6) month review:~~ ~~(3-17-22)~~

~~**a.** Determine the extent of compliance with the treatment plan;~~ ~~(3-17-22)~~

~~**b.** Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement;~~ ~~(3-17-22)~~

~~**c.** Review compliance with the Indian Child Welfare Act, when applicable;~~ ~~(3-17-22)~~

~~**d.** Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and~~ ~~(3-17-22)~~

~~**e.** Project a date by which the child may be returned and safely maintained at home or placed for adoption, guardianship, or other permanent placement.~~ ~~(3-17-22)~~

~~**05. Recommendations and Conclusions of Six Month Review Panel**. Following the six (6) month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights.~~ ~~(3-17-22)~~

**~~801~~237. -- 999. (RESERVED)**

# IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

## 17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

## DOCKET NO. 17-1001-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 17-1001-2301. Only those sections of the rule effected by Senate Concurrent Resolution (SCR) 129 are being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **SCR 129**, IDAPA 17.10.01, "Administrative Rules Under the Worker's Compensation Law," the amendments to Section 011, Subsection 07 (renumbered and codified now as Subsection 011.03), and Section 013, Subsection 02, only, adopted as a pending rule under Docket Number **17-1001-2301**, is not consistent with legislative intent and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Sections 011 and 013 are reprinted here as affected by SCR 129 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by SCR 129.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~* also *codified as italicized.***

### 011. CLAIMS FOR COMPENSATION.

**01. Claim for Benefits**. A claim for benefits is initiated by filing an Application in the form available on the agency's website. An Application for Compensation is deemed filed when the claimant has provided the required information and the signed application is received at the Commission's office in Boise. (7-1-24)

**02. Proceedings to Secure Benefits**. (7-1-24)

**a.** Initial Determination by CVCP Division. After sufficient information has been gathered, the CVCP

Division may make an initial determination granting, partially granting, or denying benefits. An initial determination of the CVCP Division shall be final and conclusive as to all matters adjudicated in the determination (7-1-24)

**b.** Request for Reconsideration. Within twenty (20) days from the date that the initial determination is issued, the claimant may file a request with the CVCP Division that the division reconsider its decision, or the CVCP Division may reconsider the matter on its own motion. The decision of the CVCP Division on reconsideration shall be final and conclusive as to all matters adjudicated in the decision. (7-1-24)

***03. Allowable Payments for Medical Services**. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (3-31-22)*

***a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (3-31-22)*

*i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. (3-31-22)*

*ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (3-31-22)*

*iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (3-31-22)*

*iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (3-31-22)*

*v. Paragraph 011.03.e. of this rule, does not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (3-31-22)*

***b.** Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:*

| ***MEDICAL FEE SCHEDULE*** | | | |
|---|---|---|---|
| ***DESCRIPTION*** | ***CODE RANGE(S)*** | | ***CONVERSION FACTOR*** |
| *Anesthesia* | *00000 - 09999* | | *$60.05* |
| *Surgery - Group One* | *22000 - 22999*<br>*23000 - 24999*<br>*25000 - 27299*<br>*27300 - 27999*<br>*29800 - 29999*<br>*61000 - 61999*<br>*62000 - 62259*<br>*63000 - 63999* | *Spine*<br>*Shoulder, Upper Arm, & Elbow*<br>*Forearm, Wrist, Hand, Pelvis & Hip*<br>*Leg, Knee, & Ankle*<br>*Endoscopy & Arthroscopy*<br>*Skull, Meninges & Brain*<br>*Repair, Neuroendoscopy & Shunts*<br>*Spine & Spinal Cord* | *$144.48* |
| *Surgery - Group Two* | *28000 - 28999*<br>*64550 - 64999* | *Foot & Toes*<br>*Nerves & Nervous System* | *$129.00* |
| *Surgery - Group Three* | *13000 - 19999*<br>*20650 - 21999* | *Integumentary System*<br>*Musculoskeletal System* | *$113.52* |

| MEDICAL FEE SCHEDULE | | | |
|---|---|---|---|
| DESCRIPTION | CODE RANGE(S) | | CONVERSION FACTOR |
| Surgery - Group Four | 20000 - 20615<br>30000 - 39999<br>40000 - 49999<br>50000 - 59999<br>60000 - 60999<br>62260 - 62999<br>64000 - 64549<br>65000 - 69999 | Musculoskeletal System<br>Respiratory & Cardiovascular<br>Digestive System<br>Urinary System<br>Endocrine System<br>Spine & Spinal Cord<br>Nerves & Nervous System<br>Eye & Ear | $87.72 |
| Surgery - Group Five | 10000 - 12999<br>29000 - 29799 | Integumentary System<br>Casts & Strapping | $69.14 |
| Radiology | 70000 - 79999 | Radiology | $87.72 |
| Pathology & Laboratory | 80000 - 89999 | Pathology & Laboratory | To Be Determined |
| Medicine - Group One | 90000 - 90749<br>94000 - 94999<br>97000 - 97799<br>97800 - 98999 | Immunization, Injections, & Infusions<br>Pulmonary / Pulse Oximetry<br>Physical Medicine & Rehabilitation<br>Acupuncture, Osteopathy, & Chiropractic | $46.44 |
| Medicine - Group Two | 90750 - 92999<br>96040 - 96999<br>99000 - 99607 | Psychiatry & Medicine<br>Assessments & Special Procedures<br>E / M & Miscellaneous Services | $66.56 |
| Medicine - Group Three | 93000 - 93999<br>95000 - 96020 | Cardiography, Catheterization, & Vascular Studies<br>Allergy / Neuromuscular Procedures | $72.24 |

(3-31-22)

**c.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (3-31-22)

**d.** Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. (3-31-22)

**e.** Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. (3-31-22)

**f.** Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will

*be reimbursed as follows: (3-31-22)*

*i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-31-22)*

*ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-31-22)*

*iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-31-22)*

*iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-31-22)*

***(BREAK IN CONTINUITY OF SECTIONS)***

**013. COMPENSATION.**

**01. Disbursements of Compensation**. Eligible payments shall be made directly to the provider of the service unless the claimant has already paid the provider. If the claimant has already paid the provider, payment shall be made to the claimant. (7-1-24)

~~***02. Allowable Payments for Medical Services**. Pursuant to Section 72-1026, Idaho Code, the Commission adopts a medical fee schedule that is posted on the agency's website and will pay providers for medical services in accordance with said schedule. The conversion factors set out in the medical fee schedule may be adjusted once a year in conjunction with the annual adjustment of the Resource Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. (____)~~

**02. Wage Loss Benefits**. "Wages received at the time of the criminally injurious conduct" shall be the claimant's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: (7-1-24)

**a.** If the Wages were fixed by the hour, and the claimant worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the claimant worked or was scheduled to work each week. (7-1-24)

**b.** If the Wages were fixed by the hour and the claimant did not work the same number of hours each week, or if the claimant was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the claimant was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the claimant was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that they worked. (7-1-24)

**c.** If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (7-1-24)

**03. Weekly Compensation Benefits If Claimant Employable But Not Employed**. If a claimant qualifies under Section 72-1019(7)(a), Idaho Code, the following provisions apply: (7-1-24)

**a.** If at the time of the criminally injurious conduct the claimant was receiving unemployment benefits and as a result of that conduct the claimant becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars ($150) or their weekly benefit amount under the Employment Security Law. (7-1-24)

**b.** If at the time of the criminally injurious conduct the claimant was unemployed, but scheduled to begin employment on a date certain and if they were unable to work for one (1) week as a result of that conduct,

weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars ($150) or two-thirds (2/3) of the amount that they would have earned at their scheduled employment, and those benefits shall be payable beginning on the date that their employment was scheduled to begin. (7-1-24)

**c.** If prior to the criminally injurious conduct the claimant was performing necessary household duties which they are disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the claimant's house to perform those duties, the claimant shall receive weekly benefits under the Crime Victim's Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars ($150) per week. (7-1-24)

**d.** In other circumstances, the Commission may award an amount it deems appropriate. (7-1-24)

**04. Treating Physician**. A claimant may choose their own treating physician. (7-1-24)

**05. Overpayment**. The Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. (7-1-24)

**06. Reimbursement for Transportation Expenses**. If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. (7-1-24)

**07. Payment of Bills**. (7-1-24)

**a.** Bills for treatment and sexual assault forensic examinations must be submitted within three (3) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. The time for submission may be extended upon Commission approval. (7-1-24)

**b.** For the purpose of dispersing payment, the claimant may be required to provide certain documentation, including a W-9 form. (7-1-24)

**08. Right to Recover**. (7-1-24)

**a.** The Commission's right to recover its full economic loss under a restitution order as a victim under Section 19-5304, Idaho Code, is independent from any other legal remedy it may have, including its statutory right to subrogation under Section 72-1023, Idaho Code, and is not barred by civil settlements entered into by other victims. (7-1-24)

**b.** The Commission may reduce or waive its subrogated interest in a settlement or civil action. (7-1-24)

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.01.01 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

## DOCKET NO. 18-0101-2401 (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 Section 41-1334, Idaho Code.

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

**Monday, September 23, 2024**
**2:00 p.m. - 3:30 p.m.(MT)**

**In-person participation is available at:**
**Idaho Department of Insurance**
**700 W. State St., 3rd Floor**
**Boise, ID 83702**

**Web Meeting Link:**
**Click here to join the meeting**
**Meeting ID: 259 030 737 919 Passcode: PWSpjG**
Download Teams | Join on the web

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 purpose of this rule describes conditions when a licensee may disclose nonpublic personal financial information to affiliates and nonaffiliated third parties. Also, this rule provides methods for individuals to prevent a licensee from disclosing that information.

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

No fee or charge imposed or increased.

**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: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, Volume 24-7, pages 114-115 under docket number 18-ZBRR-2401.

**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:

Pursuant to Section 41-1334(2), Idaho Code, this rule must be consistent with the provisions of Title V of the Gramm-Leach-Bliley Act of 1999. Accordingly, this rulemaking intends to incorporate the following by reference: 16 C.F.R. 313, January 1, 2024 Edition. Available at: https://www.govinfo.gov/content/pkg/CFR-2024-title16-vol1/pdf/CFR-2024-title16-vol1-part313.pdf.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.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 September 25, 2024.

DATED this 2nd day of August, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0101-2401**
**(ZBR Chapter Rewrite)**

## 18.01.01 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

**000. LEGAL AUTHORITY.**
~~Title 41, Chapter 13,~~ Section 41-1334, Idaho Code. ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

~~**01. Title**. IDAPA 18.01.01, "Rule to Implement the Privacy of Consumer Financial Information." (3-31-22)~~

~~**02. Scope.**~~ This rule describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties and provides methods for individuals to prevent a licensee from disclosing that information. ~~(3-31-22)~~( )

~~**03. Applicability**. This rule applies to nonpublic personal financial information about individuals who obtain or are beneficiaries of products or services primarily for personal, family, or household purposes from licensees. This rule does not apply to information about companies or individuals who obtain products or services for business, commercial, or agricultural purposes.~~ ~~(3-31-22)~~

**002. -- 00~~9~~3. (RESERVED)**

**004. INCORPORATION BY REFERENCE.**
Pursuant to Section 41-1334(2), Idaho Code, any rules adopted by the Director must be consistent with the provisions of Title V of the Gramm-Leach-Bliley Act of 1999. Accordingly, the Director incorporates the following by reference to ensure the agency fulfills the requirements of Idaho code: ( )

**01. 16 C.F.R. 313, January 1, 2024 Edition**. Available at https://www.govinfo.gov/content/pkg/CFR-2024-title16-vol1/pdf/CFR-2024-title16-vol1-part313.pdf. ( )

**005. NONDISCRIMINATION.**

A licensee will not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of this rule. ( )

**~~010. DEFINITIONS.~~**

~~All terms defined in Title 41, Chapters 1 and 13, Idaho Code, that are used in this rule have the same meaning as used in those chapters. In addition, the following terms are defined as used in this chapter.~~ ~~(3-31-22)~~

**~~01. Clear and Conspicuous~~**. ~~(3-31-22)~~

**~~a.~~** ~~A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice if it:~~ ~~(3-31-22)~~

~~i. Presents the information in clear, concise sentences, paragraphs, and sections;~~ ~~(3-31-22)~~

~~ii. Uses short explanatory sentences or bullet lists whenever possible;~~ ~~(3-31-22)~~

~~iii. Uses definite, concrete, everyday words and active voice whenever possible;~~ ~~(3-31-22)~~

~~iv. Avoids multiple negatives;~~ ~~(3-31-22)~~

~~v. Avoids legal and highly technical business terminology whenever possible;~~ ~~(3-31-22)~~

~~vi. Avoids explanations that are imprecise and readily subject to different interpretations.~~ ~~(3-31-22)~~

~~vii. Uses an easy-to-read typeface and type size, and uses boldface or italics for key words; and~~ ~~(3-31-22)~~

~~viii. When in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices.~~ ~~(3-31-22)~~

**~~b.~~** ~~If a licensee provides a notice on a web page, the notice needs to call attention to the nature and significance of the information in the notice and place the notice on a screen that consumers frequently access, or place a link on a screen that consumers frequently access that connects directly to the notice.~~ ~~(3-31-22)~~

**~~02. Collect~~**. ~~To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifiers assigned to the individual.~~ ~~(3-31-22)~~

**~~03. Company~~**. ~~A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.~~ ~~(3-31-22)~~

**~~04. Consumer~~**. ~~An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee used primarily for personal, family, or household purposes. Examples:~~ ~~(3-31-22)~~

**~~a.~~** ~~An individual who provides nonpublic personal information to a licensee in connection with an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.~~ ~~(3-31-22)~~

**~~b.~~** ~~An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for or provides processing or other services to the financial institution.~~ ~~(3-31-22)~~

**~~c.~~** ~~If the licensee provides the initial, annual, and revised notices under Sections 100, 150, and 300 of this rule to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under Sections 450, 451, and 452 of this rule, an individual is not the consumer of the licensee solely because he is:~~ ~~(3-31-22)~~

i. A participant or a beneficiary of an employee benefit plan the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary; or (3-31-22)

ii. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee. (3-31-22)

iii. A beneficiary in a workers' compensation plan. (3-31-22)

**d.** An individual is not a licensee's consumer solely because he is: (3-31-22)

i. A beneficiary of a trust for which the licensee is a trustee; or (3-31-22)

ii. Designated the licensee as trustee for a trust. (3-31-22)

**05. Consumer Reporting Agency**. Is the same meaning as found in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)). (3-31-22)

**06. Control**: (3-31-22)

**a.** Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one (1) or more other persons; (3-31-22)

**b.** Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or (3-31-22)

**c.** The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the director determines. (3-31-22)

**07. Customer**. A consumer who has a customer relationship with a licensee. (3-31-22)

**08. Customer Relationship**. A continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer to be used primarily for personal, family, or household purposes. (3-31-22)

**a.** A consumer does not have a continuing relationship with a licensee if: (3-31-22)

i. The licensee sells the consumer travel insurance in an isolated transaction; (3-31-22)

ii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee; (3-31-22)

iii. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing either a lump sum settlement option or a settlement option involving an ongoing relationship with the licensee; (3-31-22)

iv. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or (3-31-22)

**09. Financial Institution**. Any institution engaging in activities that are financial in nature. Financial institution does not include: (3-31-22)

**a.** Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.); (3-31-22)

**b.** The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm

Credit Act of 1971 (12 U.S.C. 2001 et seq.); or (3-31-22)

**c.** Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party. (3-31-22)

**10. Financial Product or Service**. A product or service that a financial holding company could offer including a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service. (3-31-22)

**11. Licensee**. (3-31-22)

**a.** A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information set forth in this rule if the licensee is an employee, agent, or other representative of another licensee ("the principal") and: (3-31-22)

i. The principal complies with, and provides the notices prescribed by this rule; and (3-31-22)

ii. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule. (3-31-22)

**b.** A licensee also includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Title 41, Chapter 12, Idaho Code. (3-31-22)

**12. Nonpublic Personal Information**. (3-31-22)

**a.** Means personally identifiable financial information; including any list, description or other grouping of consumers (see archived 18.01.48) derived using any personally identifiable financial information not publicly available. (3-31-22)

**b.** Nonpublic personal financial information does not include: (3-31-22)

i. Health information; (3-31-22)

ii. Publicly available information, except as included on a list described in Subparagraph 010.11.a., of this rule; or (3-31-22)

iii. Any list, description or other grouping of consumers derived without using any personally identifiable financial information that is not publicly available. (3-31-22)

**13. Opt Out**. A direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party. (3-31-22)

**14. Personally Identifiable Financial Information**. (3-31-22)

**a.** Any information: (3-31-22)

i. A consumer provides to a licensee to obtain an insurance product or service from the licensee; (3-31-22)

ii. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer. (3-31-22)

**b.** Examples of personally identifiable financial information: (3-31-22)

i. Account balance information and payment history; (3-31-22)

ii. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or service from the licensee; (3-31-22)

iii. Information about the licensee's consumer if it is disclosed in a manner that indicates the individual is or has been the licensee's consumer; (3-31-22)

iv. Information provided by a consumer to a licensee or that the licensee or its agent obtains in connection with collecting on a loan or servicing a loan; (3-31-22)

v. Information the licensee collects through an Internet cookie (an information collecting device from a web server); and (3-31-22)

vi. Information from a consumer report. (3-31-22)

**c.** Personally identifiable financial information does not include: (3-31-22)

i. Health information; (3-31-22)

ii. A list of names and addresses of customers of an entity of a non-financial institution; and (3-31-22)

iii. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses. (3-31-22)

**15. Publicly Available Information**. (3-31-22)

**a.** Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public. (3-31-22)

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

**100. INITIAL PRIVACY NOTICE TO CONSUMERS.**

**01. Initial Notice Requirement**. A licensee will provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to: (3-31-22)

**a.** A customer no later than when the licensee establishes a customer relationship, except as provided in Subsection 100.03 of this rule; and (3-31-22)

**b.** A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 451 and 452. (3-31-22)

**02. Existing Customers**. When an existing customer obtains a new insurance product or service from a licensee, which is used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Subsection 100.01 of this rule if the notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection 100.01 of this rule. (3-31-22)

**03. Exceptions Allowing Subsequent Delivery of Notice**. A licensee may provide the initial notice prescribed in Paragraph 100.01.a. of this rule in a reasonable time after the licensee establishes a customer relationship if: (3-31-22)

**a.** Establishing the customer relationship is not at the customer's election; or (3-31-22)

**b.** It would avoid substantially delaying the customer's transaction and the customer agrees to receive

~~the notice at a later time.~~ ~~(3-31-22)~~

~~**101. – 149. (RESERVED)**~~

~~**150. ANNUAL PRIVACY NOTICE TO CUSTOMERS.**~~

~~**01. General Rule**. A licensee will provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.~~ ~~(3-31-22)~~

~~**02. Exceptions: Termination of Customer Relationship and Duplicate Notices.**~~ ~~(3-31-22)~~

~~**a.** A licensee is not obligated to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a customer relationship.~~ ~~(3-31-22)~~

~~i. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.~~ ~~(3-31-22)~~

~~**c.** Notwithstanding Subsection 150.01, a licensee is not obligated to provide the annual privacy notice to a current customer if the licensee:~~ ~~(3-31-22)~~

~~i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and~~ ~~(3-31-22)~~

~~ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150.~~ ~~(3-31-22)~~

~~**151. – 199. (RESERVED)**~~

~~**200. INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.**~~
~~The initial, annual and revised privacy notices a licensee provides, under Sections 100, 150, and 300, needs to include each of the following items of information, in addition to any other information the licensee wishes to provide:~~ ~~(3-31-22)~~

~~**01. Information Licensee Collects or Discloses**. The categories of nonpublic personal financial information the licensee collects or discloses.~~ ~~(3-31-22)~~

~~**02. Parties to Whom Licensee Discloses**. The categories of third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 451 and 452.~~ ~~(3-31-22)~~

~~**03. Disclosures of Information About Former Customers**. The categories of nonpublic personal financial information about the licensee's former customers the licensee discloses, and the categories of third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 451 and 452.~~ ~~(3-31-22)~~

~~**04. Disclosures Under Section 450**. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 450 (and no other exception in Sections 451 and 452 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted is to provided.~~ ~~(3-31-22)~~

~~**05. Explanation of Right to Opt Out**. An explanation of the consumer's right under Subsection 400.01 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise their right at that time.~~ ~~(3-31-22)~~

**06. Disclosures Under Federal Law**. Any disclosures the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (notices regarding the ability to opt out of disclosures of information among affiliates); and the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information. (3-31-22)

**201. DESCRIPTION OF PARTIES SUBJECT TO EXCEPTIONS.**
If a licensee discloses nonpublic personal financial information as authorized under Sections 451 and 452, the licensee is not obligated to list those exceptions in the initial or annual privacy notices prescribed by Sections 100 and 150. When describing the categories of parties to whom disclosure is made, the licensee will state only that it makes disclosures to other third parties. (3-31-22)

**202. SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.**

**01. Categories of Nonpublic Personal Financial Information That the Licensee Collects**. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable: (3-31-22)

**a.** Information from the consumer; (3-31-22)

**b.** Information about the consumer's transactions with the licensee, its affiliates, or third parties; (3-31-22)

**c.** Information from a consumer reporting agency. (3-31-22)

**02. Categories of Nonpublic Personal Financial Information a Licensee Discloses**. (3-31-22)

**a.** A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes it according to the source, as described in Subsection 202.01 of this rule, and provides a few examples to illustrate the types of information in each category. (3-31-22)

**b.** If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information the licensee discloses. (3-31-22)

**03. Categories of Affiliates and Nonaffiliated Third Parties to Whom the Licensee Discloses**. A licensee satisfies the requirement to categorize the third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. (3-31-22)

**04. Disclosures Under Exception for Service Providers and Joint Marketers**. If a licensee discloses nonpublic personal financial information under the exception in Section 450 to a nonaffiliated third party to market products or services it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection 200.04 of this rule if it: (3-31-22)

**a.** Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection 200.01 of this rule; and (3-31-22)

**b.** States whether the third party is: (3-31-22)

i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or (3-31-22)

ii. A financial institution with whom the licensee has a joint marketing agreement. (3-31-22)

**05. Simplified Notices**. If a licensee does not disclose and does not wish to reserve the right to disclose

nonpublic personal financial information about customers or former customers to third parties except as authorized under Sections 451 and 452, the licensee may simply state that fact, in addition to the information it provides under Subsections 200.01, 200.07, and Section 201 of this rule. (3-31-22)

**06. Confidentiality and Security**. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following: (3-31-22)

**a.** Describes in general terms who is authorized to have access to the information; and (3-31-22)

**b.** States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. (3-31-22)

## 203. SHORT FORM INITIAL NOTICE WITH OPT OUT NOTICE FOR NON-CUSTOMERS.

**01. Short Form Initial Notice Allowed**. A licensee may satisfy the initial notice requirements for a consumer who is not a customer, by providing a short form initial notice at the same time the licensee delivers an opt out notice as prescribed in Section 250. (3-31-22)

**02. Short Form Initial Notice Requirements**. A short form initial notice will: (3-31-22)

**a.** Be clear and conspicuous; (3-31-22)

**b.** State that the licensee's privacy notice is available upon request; and (3-31-22)

**c.** Explain a reasonable means by which the consumer may obtain the notice. (3-31-22)

**03. Delivery of Short Form Initial Notice**. The licensee is not obligated to deliver its privacy notice with its short form initial notice but may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee will deliver its privacy notice according to Section 350. (3-31-22)

**04. Examples of Obtaining Privacy Notice**. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee: (3-31-22)

**a.** Provides a toll-free telephone number the consumer may call to request the notice; (3-31-22)

**b.** Maintains copies of the notice on hand at the licensee's office and provides it to the consumer immediately upon request; or (3-31-22)

**c.** Posts it on their website. (3-31-22)

## 204. -- 249. (RESERVED)

## 250. FORM OF OPT OUT NOTICE TO CONSUMERS.

**01. Opt Out Notice Form**. If a licensee is prescribed to provide an opt out notice under Subsection 400.01, it will provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 400. The notice will state: (3-31-22)

**a.** The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party; (3-31-22)

**b.** The consumer has the right to opt out of that disclosure; and (3-31-22)

**c.** A reasonable means by which the consumer may exercise the opt out right. (3-31-22)

**02.** **Adequate Opt Out Notice**. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee: (3-31-22)

**a.** Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, and states that the consumer can opt out of the disclosure of that information; and (3-31-22)

**b.** Identifies the insurance products or services that the consumer obtains from the licensee to which the opt out direction would apply. (3-31-22)

**03.** **Reasonable Means to Exercise an Opt Out Right**. A licensee provides a reasonable means to exercise an opt out right if it: (3-31-22)

**a.** Designates check-off boxes in a prominent position on the relevant forms with the opt out notice; (3-31-22)

**b.** Includes a reply form together with the opt out notice; (3-31-22)

**c.** Provides an electronic means to opt out, if the consumer agrees to the electronic delivery of information; or (3-31-22)

**d.** Provides a toll-free telephone number that consumers may call to opt out. (3-31-22)

## 251. PROVIDING OPT OUT NOTICE TO CONSUMERS AND COMPLYING WITH OPT OUT DIRECTION.

**01.** **Joint Relationships**. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice providing any of the joint consumers to exercise the right to opt out. The licensee may either: (3-31-22)

**a.** Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or (3-31-22)

**b.** Permit each joint consumer to opt out separately. (3-31-22)

**c.** A licensee cannot require all joint consumers to opt out before it implements any opt out direction. (3-31-22)

**02.** **Time to Comply with Opt Out**. A licensee will comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it. (3-31-22)

**03.** **Continuing Right to Opt Out**. A consumer may exercise the right to opt out at any time. (3-31-22)

**04.** **Duration of Consumer's Opt Out Direction**. (3-31-22)

**a.** A consumer's direction to opt out under Sections 250 and 251 is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. (3-31-22)

**b.** If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship. (3-31-22)

**05.** **Delivery**. When a licensee is prescribed to deliver an opt out notice by Section 250, the licensee will deliver it according to Section 350. (3-31-22)

## 252. – 299. (RESERVED)

**300. REVISED PRIVACY NOTICES.**

**01. General Rule**. A licensee will not disclose any nonpublic personal financial information other than as described in the initial notice that the licensee provided to that consumer under Section 100, unless: (3-31-22)

**a.** The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices; (3-31-22)

**b.** The licensee has provided to the consumer a new opt out notice; (3-31-22)

**c.** The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and (3-31-22)

**d.** The consumer does not opt out. (3-31-22)

**301. – 349. (RESERVED)**

**350. DELIVERY.**

**01. How to Provide Notices**. A licensee will make available any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically. (3-31-22)

**02. Reasonable Expectation of Notice**. A licensee may reasonably expect that a consumer will receive actual notice if the licensee: (3-31-22)

**a.** Hand-delivers a printed copy of the notice to the consumer; (3-31-22)

**b.** Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication; or (3-31-22)

**c.** For a consumer who conducts transactions electronically, or an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service. (3-31-22)

**03. Annual Notices Only**. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if: (3-31-22)

**a.** The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or (3-31-22)

**b.** The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request. (3-31-22)

**04. Oral Description of Notice Insufficient**. A licensee cannot provide any notice prescribed by this rule solely by orally explaining the notice. (3-31-22)

**05. Retention or Accessibility of Notices for Customers**. (3-31-22)

**a.** For customers only, a licensee will provide all notices so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. (3-31-22)

**b.** Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee: (3-31-22)

i. Hand delivers a printed copy of the notice to the customer; (3-31-22)

ii. Mails a printed copy of the notice to the last known address of the customer; or (3-31-22)

iii. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site. (3-31-22)

**06. Joint Notice with Other Financial Institutions**. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution. (3-31-22)

**351. – 399. (RESERVED)**

**400. LIMITS ON DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION TO NONAFFILIATED THIRD PARTIES.**

**01. Conditions for Disclosure**. (3-31-22)

**a.** Except as authorized in this rule, a licensee will not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless: (3-31-22)

i. The licensee has provided to the consumer an initial notice as prescribed under Section 100; (3-31-22)

ii. The licensee has provided to the consumer an opt out notice as prescribed in Sections 250 and 251; (3-31-22)

iii. The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before it discloses the information to the nonaffiliated third party; and (3-31-22)

iv. The consumer does not opt out. (3-31-22)

**b.** If a consumer opts out, the licensee cannot disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452. (3-31-22)

**c.** Examples of a reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if the licensee mails the notices prescribed in Subsection 400.01 of this rule to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means in thirty (30) days from the date of mailing. (3-31-22)

**02. Application of Opt Out to All Consumers and All Nonpublic Personal Financial Information**. (3-31-22)

**a.** A licensee will comply with Section 400, regardless of whether the licensee and the consumer have established a customer relationship. (3-31-22)

**b.** Unless a licensee complies with Section 400, the licensee will not disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer. (3-31-22)

**03. Partial Opt Out**. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out. (3-31-22)

**401. LIMITS ON REDISCLOSURE AND REUSE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.**

**01. Information the Licensee Receives Under an Exception**. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution, the licensee may disclose the information only: (3-31-22)

**a.** To the affiliates of the financial institution from which the licensee received the information; and (3-31-22)

**b.** To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information. (3-31-22)

**02. Information a Licensee Discloses Under an Exception**. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party, the third party may disclose that information only: (3-31-22)

**a.** To the licensee's affiliates; (3-31-22)

**b.** To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and (3-31-22)

**c.** To any other person, if the disclosure would be lawful if the licensee made it directly to that person. (3-31-22)

**402. LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.** A licensee will not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer. (3-31-22)

**403. -- 449. (RESERVED)**

**450. EXCEPTION TO OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR SERVICE PROVIDERS AND JOINT MARKETING.**

**01. General Rule**. (3-31-22)

**a.** The opt out requirements in Sections 250, 251 and 400 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee: (3-31-22)

i. Provides the initial notice in accordance with Section 100; and (3-31-22)

ii. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 451 or 452 in the ordinary course of business to carry out those purposes. (3-31-22)

**451. EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR PROCESSING AND SERVICING TRANSACTIONS.**

**01. Exceptions**. The requirements for initial notice in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with: (3-31-22)

~~a. Servicing or processing an insurance product or service that a consumer requests or authorizes; (3-31-22)~~

~~b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; (3-31-22)~~

~~c. A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or (3-31-22)~~

~~d. Reinsurance or stop loss or excess loss insurance. (3-31-22)~~

~~452. OTHER EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.~~

~~01. Exceptions to Opt Out Requirements. The requirements for initial notice to consumers in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply when a licensee discloses nonpublic personal financial information: (3-31-22)~~

~~a. With the consent or at the direction of the consumer; (3-31-22)~~

~~b. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction; (3-31-22)~~

~~c. To protect against or prevent actual or potential fraud or unauthorized transactions; (3-31-22)~~

~~d. For prescribed institutional risk control or for resolving consumer disputes or inquiries; (3-31-22)~~

~~e. To persons holding a legal or beneficial interest relating to the consumer; or (3-31-22)~~

~~f. To persons acting in a fiduciary or representative capacity on behalf of the consumer; (3-31-22)~~

~~g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies rating a licensee, persons assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors; (3-31-22)~~

~~h. To the extent specifically permitted or prescribed under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, and the Federal Trade Commission), with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, self-regulatory organizations or for an investigation on a matter related to public safety; (3-31-22)~~

~~i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or from a consumer report reported by a consumer reporting agency; (3-31-22)~~

~~j. In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit; (3-31-22)~~

~~k. To comply with federal, state or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law; (3-31-22)~~

~~l. For purposes related to the replacement of a group benefit plan, a group health plan, a group~~

~~welfare plan or a workers' compensation plan; or~~ ~~(3-31-22)~~

~~**m.** With the consent of or at the direction of a liquidator or rehabilitator appointed pursuant to Chapter 33, Title 41, Idaho Code.~~ ~~(3-31-22)~~

~~**453. -- 499. (RESERVED)**~~

~~**500. NONDISCRIMINATION.**~~
~~A licensee will not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of this rule.~~ ~~(3-31-22)~~

**~~501~~006. -- 999. (RESERVED)**

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.03.02 – LIFE SETTLEMENTS

## DOCKET NO. 18-0302-2401 (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 41-211 and 41-1965, Idaho Code.

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

**Monday, September 23, 2024**
**2:00 p.m. - 3:30 p.m.(MT)**

**Idaho Department of Insurance**
**700 W. State St., 3rd Floor**
**Boise, ID 83702**

**Web Meeting Link:**
**Click here to join the meeting**
**Meeting ID: 259 030 737 919 Passcode: PWSpjG**
Download Teams | Join on the web

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 purpose of this rule sets requirements for the sale and settlement of life insurance contracts where the owner is an Idaho resident.

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

No fee or charge imposed or increased.

**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: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, Volume 24-7, pages 114-115 under docket number 18-ZBRR-2401.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.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 September 25, 2024.

DATED this 2nd day of August, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0302-2401**
**(ZBR Chapter Rewrite)**

## 18.03.02 – LIFE SETTLEMENTS

**000. LEGAL AUTHORITY.**
~~Title 41, Chapters 2 and 19,~~ Sections 41-211 and 41-1965, Idaho Code. ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

**~~01.~~ ~~Title~~.** ~~18.03.02, "Life Settlements."~~ ~~(3-31-22)~~

**~~02.~~ ~~Scope~~.** ~~This~~ This rule sets forth requirements regarding the sale and settlement of life insurance contracts where the owner of the contract is an Idaho resident, consistent with Sections 41-1950 through 41-1965, Idaho Code. ~~(3-31-22)~~( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**
In addition to the definitions found in Section 41-1951, Idaho Code, the following apply: ( )

**~~01.~~ ~~Advertising Materials~~.** ~~(3-31-22)~~

**~~a.~~** ~~Printed and published material, audio visual material, and descriptive literature of a broker or provider used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other internet displays or communications, other forms of electronic communications, billboards and similar displays;~~ ~~(3-31-22)~~

**~~b.~~** ~~Descriptive literature and sales aids of all kinds issued by a provider or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and~~ ~~(3-31-22)~~

**~~c.~~** ~~Prepared sales talks, presentations and material for use by providers and brokers.~~ ~~(3-31-22)~~

0~~2~~1. **Affiliation**. Any contractual relationship outside of the proposed life settlement contract, any ownership interest or relation, any familial relation, an employment relation, any relationship creating financial dependency, any arrangement that provides one party the ability to control or influence the actions of another party, or

any other arrangement or relationship that might reasonably result in parties treating one another in a less than arm's length manner. (3-31-22)

**02**. **Registration**. The process completed by a broker or provider pursuant to Section 41-1952, Idaho Code. ( )

~~**03. Operating as a Broker**. As defined in Section 41-1951(6), Idaho Code.~~ ~~(3-31-22)~~

~~**04. Operating as a Provider**. As defined in Section 41-1951(8), Idaho Code.~~ ~~(3-31-22)~~

**011. RENEWAL OF REGISTRATION TO OPERATE AS LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER.**

~~**01. Registration**. Not later than ten (10) days after first operating as a provider or broker a person will notify the Director that they are acting as a provider or broker by registering with the Department and paying applicable fees as set forth at IDAPA 18.01.02, "Schedule of Fees, Licenses and Miscellaneous Charges". Registration includes information as prescribed by the Director along with a certification from the applicant that they have read and familiarized themselves with the requirements of Sections 41-1950 through 41-1965, Idaho Code, and these rules.~~ ~~(3-31-22)~~

~~**02. Renewal of Registration**.~~ Registration as a broker or provider continues until the next renewal date of the person's producer license. If the initial registration takes place within ninety (90) calendar days from the producer license expiration date, registration will continue until the following producer license renewal date. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.02. An insurance producer who allows their registration as a broker or provider to lapse may, within twelve (12) months from the renewal due date, reinstate the registration by paying a penalty in the amount of double the unpaid renewal fee. If a registration is allowed to lapse for more than twelve (12) months without reinstatement, a producer wishing to act a broker or provider will re-register with the Department and pay the applicable registration fee prior to operating as a broker or provider. ~~(3-31-22)~~( )

**012. FILING OF ~~FORMS~~ ADVERTISING MATERIALS.**

~~**01. Filing of Life Settlement Contracts and Disclosure Forms**. No person may use a life settlement contract or disclosure form in Idaho unless the form is first filed with the Department along with a certification that the form meets the requirements of Sections 41-1950 through 41-1965, Idaho Code. The certification will be in the form as prescribed by the Director and signed by a person registered as a provider or broker.~~ ~~(3-31-22)~~

**0~~2~~1. Filing of Advertising Materials**. No person may use advertising materials promoting or advertising the availability of life settlements or life settlement services in Idaho unless the materials are first filed with the Department. If the advertising is not in written form, a written script will be filed. All advertising relating to the business of life settlements will have a unique identifying form number in the lower left-hand corner of the advertising piece and needs to comply the following standards: (3-31-22)

**a.** Be truthful and not misleading in fact and implication. All information is set out conspicuously and in close conjunction with the statements and will not be minimized, rendered obscure, ambiguous, or intermingled with the context of the advertisement so as to be confusing or misleading. (3-31-22)

**b.** Reference the complete form number of any life settlement contract being advertised and clearly identify the full and complete name of the provider or broker using the promotional material. Advertising materials cannot use a trade name, any insurance group designation, name of the parent company of the provider or broker, name of a particular division of the provider or broker, service mark, slogan, symbol or other device which would have the capacity and tendency to mislead or deceive as to the true identity of the provider or broker without disclosing the name of the actual provider or broker using the advertising material. (3-31-22)

**c.** No advertisement will omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving sellers or prospective sellers as to the nature or extent

of any policy benefit payable. The fact that the contract offered is made available to a prospective seller for inspection prior to consummation of the sale or an offer is made to rescind the life settlement contract if the seller is not satisfied, does not remedy misleading statements. (3-31-22)

**d.** Advertising materials cannot use words or phrases in a manner which exaggerates any benefits beyond the terms of the life settlement contract and fairly and accurately describe the negative features as well as the positive features of the life settlement contract and life settlement program. An advertisement cannot represent or imply that life settlements by the provider are "liberal" or "generous," or use words of similar import, or that benefits of a life settlement are or will be beyond the actual terms of the life settlement contract. (3-31-22)

**e.** Advertising materials cannot be designed to encourage or promote the purchase of life insurance for the purpose of transferring ownership to third party investors who lack an insurable interest in the in the life of the insured. (3-31-22)

**f.** An advertisement cannot create the impression directly or indirectly that a provider, a broker, its financial condition or status, a life settlement contract or program, or the payment of life settlement benefits is approved, endorsed, or accredited by any division or agency of this state or the United States Government. (3-31-22)

**g.** Testimonials used in advertisements needs to be genuine, represent the current opinion of the author, be applicable to the life settlement contract advertised and be accurately reproduced. A provider or broker using a testimonial makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. If the person making a testimonial, an endorsement or an appraisal has a financial interest in the provider or broker, or a related entity as a stockholder, director, officer, employee, or otherwise, such fact is disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact will be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." (3-31-22)

**h.** The source of any statistics used in an advertisement are identified in the advertisement. (3-31-22)

**0~~3~~2. Font Size for Printed Materials**. Pertinent text of all printed materials needs to be filed with the director under the Life Settlement Act, including, but not limited to, notices, disclosure forms, contract forms, and advertising material, is to be formatted using at least a twelve (12) point font. Signature blocks, footnotes or text not relevant to the understanding of the printed material may be printed in a smaller font, but in no case smaller than a ten (10) point font. (3-31-22)

**0~~4~~3. Disapproval of Noncompliant Forms**. The Director may disapprove any form needed to be filed pursuant to this Section if, the form does not comply with any part of Title 41, Idaho Code, or these rules, or the form is unreasonable in its terms, contrary to the interests of the public, misleading to the public, unfair to the owner, or is printed or provided in a manner making any part of the form substantially illegible. (3-31-22)

~~**013. ANNUAL REPORTING REQUIREMENTS.**~~
~~All persons registered with the Director as a provider will file an annual statement with the Director, on or before March 1st of each year. An annual report is needed regardless of whether any life settlement contracts with Idaho owners were executed during the year.~~ ~~(3-31-22)~~

**013. (RESERVED)**

**014. EXAMINATION AND RECORDS.**
Brokers and providers are subject to examination by the Director in accordance with Title 41, Chapter 2, Idaho Code, and pay, at the direction of the Director, the actual travel expenses, reasonable living expense allowance, and reasonable compensation incurred on account of the examination upon presentation of a detailed account of the charges and expenses. (3-31-22)

**015. AFFILIATION DISCLOSURE~~S~~ TO OWNER.**

~~**01. Disclosure to Owner Upon Application**. A broker or provider will not provide an owner with an application for a life settlement contract unless the owner has also been provided a disclosure form containing all the~~

~~information requisite by Idaho Code, 41-1956 and in substantially the same form as the sample form found on the Department website. The disclosures are provided in a separate document in at least twelve (12) point font. Each page of the disclosure document is initialed by the owner indicating that it has been received and read by the owner, and the final page is dated and signed by the owner and the broker or provider that delivered the disclosure document to the owner.~~ ~~(3-31-22)~~

~~**02. Disclosures to Owner by Provider Upon Settlement**. Prior to the time an owner signs a life settlement contract, the provider will provide the owner a disclosure form containing all the information prescribed by Idaho Code 41-1957 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they are conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font and with a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document will be initialed by the owner and the final page needs to be dated and signed by the owner and the provider.~~ ~~(3-31-22)~~

~~**03. Disclosure to Owner by Broker Upon Settlement**. Prior to the time an owner signs a life settlement contract, the broker will provide the owner a disclosure form containing all the information prescribed in Idaho Code 41-1958 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they are conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font, and a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document needs to be initialed by the owner and the final page dated and signed by the owner and the broker.~~ ~~(3-31-22)~~

~~**04. Affiliations Disclosed**.~~ As a part of ~~the disclosures in this Section~~ any disclosure pursuant to Section 41-1956, 41-1957, or 41-1958, Idaho Code, a provider discloses in writing to the owner any affiliation between the provider and the issuer of the insurance policy to be settled, and a broker discloses in writing any affiliation or contractual arrangement between the broker and any person making an offer in connection with a proposed life settlement contract. ~~(3-31-22)~~( )

**016. ADDITIONAL REQUIREMENTS.**

**01. Owner's Statement**. (3-31-22)

**a.** Prior to entering into a life settlement contract, the provider obtains from each owner a written statement in substantially the following form: "I, [owners name], have freely and voluntarily consented to the life settlement contract that accompanies this statement. I have carefully read my insurance policy that is the subject of the life settlement contract and I understand the benefits that are available under the policy. I further understand that by entering into the life settlement contract, the right to benefits under the insurance policy will be sold to another party and I, my heirs or former beneficiaries will no longer have any right to receive those policy benefits." (3-31-22)

**b.** If the owner has a terminal or chronic illness, the following wording is also to be included in the owner's statement: "I am currently suffering from a terminal or chronic illness that was not diagnosed until after the policy that is the subject of the life settlement contract was issued." (3-31-22)

**c.** The statement of the owner needs to also be acknowledged by a notary public. (3-31-22)

**02. Owner's Right to Rescind Life Settlement Contract**. (3-31-22)

**a.** The life settlement contract is to conspicuously inform the owner in bold type of at least twelve (12) point font that the owner has an absolute right to rescind a life settlement contract within twenty (20) calendar days of the date the contract is executed and sets forth the manner in which notice is given. (3-31-22)

**b.** Upon being informed of the owner's intention or desire to rescind a life settlement contract, the provider immediately provides the owner with a full accounting of the amount that will be repaid by the owner ~~in~~ to rescind the policy. The amount due includes only amounts actually paid to and received by the owner pursuant to the terms of the life settlement contract along with any premiums, loans and loan interest paid by or on behalf of the provider in connection with or as a direct consequence of the life settlement contract. An owner is not obligated to pay any financial penalties, liquidated damages or other punitive fees or charges in connection with rescission of a life settlement contract. ~~(3-31-22)~~( )

**c.** Until the owner receives from the provider an accounting of the full and correct repayment amount needed to rescind the life settlement contract, a tender of payment by the owner of amounts actually received and reasonably believed to be due upon rescission will be deemed in substantial compliance with the requirement of notice and repayment of proceeds within the twenty (20) day rescission period. (3-31-22)

**03. Life Settlements Occurring Within Two Years of Policy Origination**. (3-31-22)

**a.** ~~No broker or provider may solicit, arrange for, or enter into a life settlement contract within two (2) years of the date of issuance of the life insurance policy or certificate being settled unless one (1) or more of the conditions identified in Section 41-1961, Idaho Code, applies.~~ If one (1) or more of the conditions in Section 41-1961, Idaho Code, is present, the provider obtains from the owner a written statement sworn before a notary public setting forth in detail the circumstances permitting the early settlement of the contract. The sworn statement also includes the following or substantially similar wording: "I hereby affirm that there was no plan or arrangement in place or under discussion, or any promises made, regarding the settlement of this life insurance policy at the time the policy was purchased." ~~(3-31-22)~~( )

**b.** In addition to the sworn statement, the provider will obtain and retain as a part of its records independent documentation of the circumstances permitting early settlement of the life insurance policy along with all documentation relating to any premium financing arrangements made in connection with the policy being settled. (3-31-22)

**c.** The sworn statement and copies of all supporting documentation will be provided to the insurer at the time a request for verification of coverage is submitted to the insurer. A request for verification of coverage relating to a policy or certificate that has been in effect for two (2) years or less will be considered incomplete if it is not accompanied by the owner's sworn statement and supporting documentation. An insurer that determines a request for verification of coverage is incomplete will immediately inform the broker or provider in writing that the verification is incomplete and identify all items needed to complete the request. (3-31-22)

**017. -- 999. (RESERVED)**

# IDAPA 18 – DEPARTMENT OF INSURANCE

## 18.04.04 – THE MANAGED CARE REFORM ACT RULE

## DOCKET NO. 18-0404-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 18-0404-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 48 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 48**, IDAPA 18.04.04, "The Managed Care Reform Act Rule," the amendment to Section 011, Subsection 03 (codified now as Paragraph 011.02.a.), only, adopted as a pending rule under Docket Number **18-0404-2301**, is not consistent with legislative intent and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 011 is reprinted here as affected by HCR 48 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 48.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

### 011. CAPITAL SURPLUS AND DEPOSIT REQUIREMENTS.

**01. Amount**. The following minimum capital fund apply, as per Section 41-3905(8), Idaho Code:

| Enrolled Members | Capital Funds |
|---|---|
| 0-100 | $200,000 |
| 101-300 | $300,000 |
| 301-500 | $400,000 |

| | |
|---|---|
| 501-700 | $500,000 |
| 701-1,000 | $1,000,000 |
| 1,001-2,000 | $1,500,000 |
| 2,001-3,000 | $2,000,000 |

(7-1-24)

**02.** **Time**. Within the following time periods after the organization becomes subject to the Act, in no event will the organization's capital funds be less than:

| | |
|---|---|
| One year | $1,000,000 |
| Two years | $1,500,000 |
| Three years | $2,000,000 |

(7-1-24)

***[c]a*~~03~~. ~~*Adjustments.*~~** Immediately upon becoming subject to the Act, the MCO's minimum statutory deposit *requirements* is calculated as fifty percent (50%) of the amount of the organization's *C*~~*c*~~apital funds as calculated above *up to a maximum of one million dollars ($1,000,000)*, but not less than two hundred thousand dollars ($200,000). The *amount of the* ~~*minimum*~~ deposit so held *by the Department* is adjusted based on the organization's December 31*st* and June 30*th* financial statement filings each year. In no event will the minimum prescribed statutory deposit *amount* be reduced. Upon *notification by the Department of the necessary* ~~*filing a financial statement indicating an*~~ increase in the deposit amount, the organization will have no more than thirty (30) days to come into compliance with the prescribed amount. Failure to increase the deposit as prescribed *will* ~~*may*~~ subject the organization to suspension or revocation of its certificate of authority pursuant to Section 41-326, Idaho Code. *(3-31-22)*

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.05.01 – RULES FOR TITLE INSURANCE REGULATION

## DOCKET NO. 18-0501-2401 (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 41-2705, 41-211 and 41-1314, Idaho Code.

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

**Monday, September 23, 2024**
**2:00 p.m. - 3:30 p.m.(MT)**

**In-person participation is available at:**
**Idaho Department of Insurance**
**700 W. State St., 3rd Floor**
**Boise, ID 83702**

**Web Meeting Link:**
**Click here to join the meeting**
**Meeting ID: 259 030 737 919 Passcode: PWSpjG**
Download Teams | Join on the web

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 purpose of this rule defines certain fair-trade practice standards for title insurance, defines and clarifies Section 41-2702, Idaho Code, provides procedural rules for title insurers, agents; and escrow officers in order to protect consumers and preserve the financial stability of title insurers and agents.

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

No fee or charge imposed or increased.

**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: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, Volume 24-7, pages 114-115 under docket number 18-ZBRR-2401.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.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 September 25, 2024.

DATED this 2nd day of August, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0501-2401**
**(ZBR Chapter Rewrite)**

## 18.05.01 – RULES FOR TITLE INSURANCE REGULATION

**000. LEGAL AUTHORITY.**
~~Title 41,~~ Section~~s~~ 41-211~~and 41-1314~~, Idaho Code~~., to aid in the effectuation of Title 41, Chapter 27 and Section 41-1314, Idaho Code.~~ ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

**~~01.~~ ~~Title~~.** ~~IDAPA 18.05.01, "Rules for Title Insurance Regulation."~~ ~~(3-31-22)~~

**~~02.~~ ~~Purpose~~.** ~~This~~ rule applies to all title insurers and title insurance agents~~. and:~~ ~~(3-31-22)~~

**~~a.~~** ~~Defines and clarifies the meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code.~~ ~~(3-31-22)~~

**~~b.~~** ~~Provides procedural rules as to the way title insurers, title insurance agents and escrow officers are to perform certain actions, charge rates for various services, and provide insurability on certain matters.~~ ~~(3-31-22)~~

**~~c.~~** ~~Clarifies consumer protection on title insurance products.~~ ~~(3-31-22)~~

**~~d.~~** ~~Preserves the financial stability of title insurers and title insurance agents.~~ ~~(3-31-22)~~

**~~e.~~** ~~Defines certain fair trade practice standards for title insurance, the violation of which will constitute rebates and/or illegal inducements by Sections 41-2708(3) and 41-1314, Idaho Code. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Title 41, Chapter 27 and 41-1314, Idaho Code.~~ ~~(3-31-22)~~( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**
All terms defined in Title 41, Chapters 1, 13, and 27, Idaho Code, which are used in this rule will have the same meaning as used in those chapters. (3-31-22)

**01. Applicant.** A party to a real estate transaction who may be the buyer, seller and/or a proposed or named insured on a title commitment, policy, guaranty or other title insurance product. (3-31-22)

**02. Financial Interest**. Any interest that entitles the holder in any manner to two and one-half percent (2.5%) or more of the profits or net worth of the title entity in which the interest is held. (3-31-22)

**03. Policy**. Any contract or form of title insurance which prior to its issuance has been filed with the Director of Insurance. (3-31-22)

**04. Preliminary Report**. A binder of insurance, a commitment to insure, a preliminary report of title, and litigation reports including quiet title action, foreclosure actions of contracts of sale, deeds of trust or mortgages where a policy of title insurance will be issued on the successful completion thereof. Excluded are miscellaneous reports which do not insure title, such as judgment reports, lot book reports or property search reports which are governed by Subsection 012.01. (3-31-22)

**05. Producer of Title Business**. Includes any person engaged in this state in the trade, business, occupation or profession of: (3-31-22)

**a.** Buying or selling interest in real property; or (3-31-22)

**b.** Making loans secured by interest in real property; and (3-31-22)

**c.** May include but not ~~be~~ limited to real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, attorneys, developers, sub-dividers, auctioneers engaged in the sale of real property, consumers, and the employees, agents, representatives, or solicitors of any of the foregoing; and ~~(3-31-22)~~( )

**d.** Will include any legal entity whose ownership is, directly or indirectly, comprised fifty-one percent (51%) or more by entities or individuals described in Paragraph 010.05.c of this rule. (3-31-22)

**06. Title Examination**. A search and examination of the title and a determination of insurability of the title in accordance with sound title underwriting practices. Such examination of the public records will be made only for the purpose of determining insurability of the described property and not ~~be~~ as a report on the condition of the record. ~~(3-31-22)~~( )

**07. Issuance of a Policy**. The preparation, execution and delivery of a title insurance policy which is deemed to be only a contract of insurance up to the face amount of such policy and will in no way create a tort liability as to the condition of the record insured from. The same will include any necessary investigation just prior to actual issuance of a policy to determine if there has been proper execution, acknowledgment and delivery of any conveyances, mortgage papers, and other title instruments which may be necessary for the issuance of a policy. It will also include determination of the status of taxes based on the latest available information and a final search of the title and that all necessary papers have been filed for record. Issuance of the policy ~~will~~ may not include services which are essentially escrow or closing services, such as receiving and disbursing money, prorating insurance and taxes, etc., for which an escrow fee will be charged. The issuer of the policy may specify requirements necessary for the issuance of the title insurance, but it is the responsibility of the applicant to meet such requirements and the title insurance agent ~~will~~ may not act for the applicant to satisfy the same. It is not the responsibility of the policy issuer to cure defects of title or remove liens or encumbrances. Title insurers and title insurance agents issuing title insurance policies ~~will~~ may not do any acts which constitute the practice of law and the premium will not include the cost of legal services to be performed for the benefit of anyone other than the company. A title insurance agent who is also a licensed lawyer rendering any legal services in the transaction insured will render a separate legal billing and the escrow fees ~~will~~ may not include such legal services. ~~(3-31-22)~~( )

**08. Self-Promotional**. A promotional function conducted by a single entity or a promotional item intended for distribution by a single entity. All benefits from the promotional function or item will accrue to the entity promoting itself. (3-31-22)

**09. Items of Value**. Anything that has a monetary value and includes, but is not limited to, tangible objects, services, use of facilities, monetary advances, extension of lines of credit, creation of compensating balances,

and all other forms of consideration. (3-31-22)

**10. Trade Association**. An association of persons, a majority of whom are producers of title business, or persons whose primary activity involves real property. (3-31-22)

**12. Title Entity**. Includes ~~both~~ title insurance agents, ~~and~~ title insurers and their employees, agents, or representatives. ~~(3-31-22)~~( )

**13. Definitions Pertaining ~~T~~to Collected Funds**: ~~(3-31-22)~~( )

~~**a.** Business Day means a calendar day other than Saturday or Sunday, and also excluding most major holidays. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is also excluded from the definition of a business day. (3-31-22)~~

~~**b**~~**a.** Collected Funds means (i) ~~cash (currency)~~ United States Currency; (ii) ~~wired funds when unconditionally received by the escrow agent~~ deposit made via: (1) the Federal Reserve Bank through the Federal Reserve's funds transfer system; or (2) a funds transfer system provided by an association of banks; (iii) ~~when identified as such, (1) cashier's check; (2) certified check; or (3) teller's check (official check) when any of the above are unconditionally received by the escrow agent~~ interbank electronic transfer such that the funds are unconditionally received; (iv) ~~U.S. Treasury checks, postal money orders, federal reserve bank checks, federal home loan bank checks, State of Idaho and local government checks, local or Idaho on-us checks, or local third party checks on the next business day after deposit~~ checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in I.C. 28-4-213; (v) ~~local personal or corporate checks on the second business day after deposit~~ any depository check, including cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.; and (vi) ~~non-local State and government checks, non-local on-us checks, non-local personal or corporate checks or non-local third party checks on the fifth business day after deposit. For purposes of this section a deposit is considered made on (1) the same day the item is delivered in person to an employee of a federally insured financial institution, or (2) the first business day following an after business hours deposit of an item to a federally insured financial institution~~ any other credited funds that the depository bank has confirmed are finally settled or that there has been final settlement of the funds; and (vii) any check drawn on a title insurance agent or title insurer licensed by the Idaho Department of Insurance. ~~(3-31-22)~~( )

~~**c.** Cashier's Check, Certified Check and Teller's Check (Official Check) as identified above in Subsection 010.13.b. means checks issued by a federally insured financial institution. (3-31-22)~~

~~**d.** Local Checks: Checks drawn against a federally insured financial institution located in the same check processing region as the title agent's depositary federally insured financial institution. (3-31-22)~~

~~**e.** On-us checks: Checks drawn against the same federally insured financial institution or branch as the title agent's own depositary federally insured financial institution. (3-31-22)~~

~~**f**~~**b.** Collection or Long-Term Escrow means an escrow established for the purpose of receiving two (2) or more periodic payments over a total period of time after establishment in excess of thirty (30) days. (3-31-22)

~~**g**~~**c.** Escrow includes any agreement (express, implied in fact or at law) pursuant to which funds or documents are delivered to an escrow agent for holding until the happening of a contingency or until the performance of a condition, and then delivered by the escrow agent to another or recorded by the escrow agent. (3-31-22)

~~**h**~~**d.** Escrow Agent includes any person or entity described in Section 41-2704, Idaho Code, (and the rules promulgated thereunder), which accepts funds or documents for the purpose described in Subsection 010.13.g. (3-31-22)

~~**i**~~**e.** Incidental Expenses: Direct expenses that are the obligation of one or more of the parties to an escrow transaction but are not the purchaser's principal obligation. Incidental expenses would include, but not ~~be~~ limited to, advances to cover unexpected recording fees and additional interest caused by delays in closings or miscalculations. ~~(3-31-22)~~( )

**011. TRACT INDEXES OR ABSTRACT RECORDS.**
~~For clarification and guidance, the following is considered to be the correct definition or meaning of~~As used in Section 41-2702, Idaho Code, "a complete set of tract indexes or abstract records" ~~as used in Section 41-2702, Idaho Code~~ means: A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained. Tract indexes and abstract records will be maintained and posted to current date and will include adequate maps that will enable a person working the title plant to locate a tract of land that is the subject of the title examination. ~~The basic component parts of such a set of indexes are:~~ ~~(3-31-22)~~( )

**01. Basic Component Parts**. An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: (3-31-22)

**a.** All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and (3-31-22)

**b.** All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 011.02 of these rules. (3-31-22)

**c.** No requirement is made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. (3-31-22)

**02. Name Index or Indexes.** A name index or indexes ~~wherein notations of or references to~~ showing all instruments, proceedings and other matters of record in the particular county which legally affects or may legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named and affected, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. ~~(3-31-22)~~( )

**03. Index Maintenance**. The indexes prescribed in Subsection 011.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (3-31-22)

**04. Subdivision or Refinement**. The extent to which the prescribed indexes are subdivided or refined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination. (3-31-22)

**05. Discarding or Destroying**. Any requirement established in this rule to the contrary notwithstanding, it is permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner's title insurance issued thereon. The discarding and destruction of prescribed index components is applicable only when a permanent copy of the search notes, examiner's opinion and issued policy is retained in lieu of the discarded and destroyed index components. (3-31-22)

**012. PROCEDURAL RULES.**

**01. Miscellaneous Reports**. Where an insurer or its agent issues judgment reports, lot book reports or property search reports, each such report will specifically contain the following statement: "This report is based on a search of our tract indexes of the county records. This is not a title or ownership report and no examination of the title to the property described has been made. For this reason, no liability beyond the amount paid for this report is assumed hereunder, and the company is not responsible beyond the amount paid for any errors and omissions

contained herein." (3-31-22)

**02. Special Exceptions**. An insurer may insert such special exception(s) as may develop from an examination of the title. A special exception will specifically describe the item excepted to and ~~will~~ may not be general in terms. The printed provisions of a filed policy form, including exclusions from coverage, exceptions not insured against and stipulations and conditions will not be deemed special exceptions. ~~(3-31-22)~~( )

**03. Liens and Encumbrances, Standards of Insurability and Insuring Around**. The determination of insurability as to liens and encumbrances under Sections 41-2708(1) and the risk disallowed under 41-2708(2), Idaho Code, intentionally omitting an outstanding enforceable recorded lien or encumbrance, ~~are interpreted by the insurance director to mean~~ is defined as follows: ~~(3-31-22)~~( )

**a.** "Intentionally" omitting" ~~an outstanding enforceable recorded lien or encumbrance is~~ means the issuance of the policy with the intent to conceal information from any person by suppressing or withholding title information, the consequence of which could result in a monetary loss either to the title insurance company or to the insured under the policy or binder. ~~(3-31-22)~~( )

**b.** "Outstanding enforceable recorded lien or encumbrance" and/or "determination of insurability" means as to possible liens and encumbrances will not be construed as preventing an insurer from issuing a policy without taking exception to a specific recorded, inchoate, or death tax item when sound underwriting standards and practices allow insurance against the item. Defects of title are not regulated by this provision. Specifically, a policy may be issued without taking exception to the following items on the conditions set out: ~~(3-31-22)~~( )

i. Where a lien securing an obligation, though not released of record, to the satisfaction of the insurer has been discharged and the insurer or its agent has documentary evidence in its file that the obligation has been paid in full. (3-31-22)

ii. Where funds are in escrow to pay said item and a recordable release in form for filing is available for recording in the ordinary course of business. (3-31-22)

iii. Where liens, in the opinion of counsel, are barred by the statute of limitations. (3-31-22)

iv. Where inchoate liens may arise from improvements to the described property and may have priority over a mortgage being insured and a sufficient indemnity defined has been delivered to and accepted by the insurer, or sufficient funds, including short term treasury bills and notes, have been deposited with the insurer or its agent to assure ultimate payment and release of such liens; provided, an exception as to such inchoate liens will be shown on the policy with a provision insuring against enforcement. Sufficient indemnity as used herein will mean a direct obligation to pay such liens in an amount judged adequate by the insurer executed by a financial institution regulated by the state or federal government or executed by a responsible person as hereinafter defined. This subsection will also apply to recorded liens being contested if the indemnity is one hundred and fifty percent (150%) of the claim and is by such financial institution or in said funds. (3-31-22)

v. Where the insurer has previously issued a policy without taking exception to the specific item and is called upon to issue an additional policy where it is already obligated under such prior policy and where the new policy will not increase its liability or exposure; provided, an exception as to such item will be shown on the policy with a provision insuring against the enforcement thereof. (3-31-22)

vi. When the mortgage policy issued insures validity and priority of a lien, the insurer need not itemize liens which are subordinate to the lien insured, whether by express subordination or operation of law, unless such subordinated matters are shown to comply with a policy provision, or unless requested by the insured to do so; provided, when issuing a preliminary report, commitment or a binder for a mortgagee's policy all subordinate liens will be shown but a statement may be made that they are subordinate. (3-31-22)

vii. With reference to federal estate taxes and state inheritance taxes which have not been paid, where the insurer has examined a balance sheet of the estate and determined more than adequate funds are on hand to pay such taxes, and the insurer has taken an indemnity from a responsible person protecting itself against such unpaid taxes, or where sufficient moneys or other securities to pay such taxes have been placed in escrow pending the

payment thereof or pending receipt of waiver of lien from the taxing authority. (3-31-22)

viii. "Responsible person" is one (1), or more than one (1) if they are jointly and severally liable, each of whose current verified balance sheet upon examination is determined by the insurer to be sufficient for the purpose of the indemnity given. Verified copies of all statements will be retained by the insurer or its agent. (3-31-22)

**04. Mechanics' Liens, Disallowed Risk**. Under the provisions of Section 41-2708, Idaho Code, ~~the Insurance Director has determined under standards of insurability, disallowed risks and rebates, that under~~ all forms of mortgage policies the risk insured will not include unrecorded liens and encumbrances, including contractors', subcontractors' professional services, materialmen's and mechanics' liens, unless: ~~(3-31-22)~~( )

**a.** The mortgage will have been placed of record prior to commencement of any improvement on the premises and the insurer is satisfied that the mortgage and related documents with reference to such priority; or (3-31-22)

**b.** Unless the provisions of Subsections 012.03.b.ii., 012.03.b.iii. or 012.03.b.iv., and 012.03.b.viii. as applicable have been complied with; or (3-31-22)

**c.** Unless the insurer has satisfied itself and documented its file that construction has been completed and the time for filing liens has expired. (3-31-22)

**05. Usury, Truth in Lending Disclosures**. Protection against usury, or disclosures prescribed in consumer credit protection acts, truth in lending acts, or similar acts imposing duties on lenders, do not constitute a part of the issuance of title insurance policies. Title insurers and their agents will not prepare or pass judgment on documents as to usury nor on disclosure documents and notice of right of rescission documents demanded by any such acts or make any computations as essential therein, in the issuance of title insurance policies; provided, an endorsement to a mortgage policy insuring that the loan is one by definition of the Truth in Lending Act exempt from rescission is permissible. Nothing herein will prevent such title insurers or their agents from performing closing or escrow services involving such matters when a proper fee is obtained therefor. (3-31-22)

**06. Filing, Approval, Unique Contract or Rate**. Whenever a title insurer is requested to insure a unique kind or class of risk for which a premium rate or form of policy or endorsement has not been filed, neither of which lends itself to an advance filing and determination of said rate or form, pursuant to Section 41-2706(4), such title insurer may make a written application to the Director of Insurance for approval of said special rate or form without complying with the filing notice and thirty (30) day waiting provisions of Section 41-2707 upon complying with the following requirements: (3-31-22)

**a.** The insurer has not agreed to the special rates, nor agreed to issue the special policy or endorsement, prior to making an application to the Director of Insurance. (3-31-22)

**b.** The insurer will make a written application to the Director of Insurance, requesting approval of the applicable special rate or special insurance policy or endorsement, wherein the insurer will set forth why the particular rate or policy or endorsement is unique as to the risk or form, that such item has or has not ever arisen in the past five (5) years to the knowledge of said insurer, and the circumstances if it has previously arisen in said period, and the circumstances which now arise which necessitate said rate, policy or endorsement and an analysis comparing said unique rate, policy or endorsement to the nearest comparable filed rate, policy or endorsement and justifying the difference on the basis of Sections 41-2706(1) and (2), Idaho Code. Such application will have attached to it the proposed policy or endorsement form. The Director of Insurance will have ten (10) working days after the date of receipt of such application to disapprove the same, and the filing will be deemed effective if the same is not disapproved within such time. The burden is upon the insurer to make inquiry after the expiration after said ten (10) days to determine whether a disapproval has been made, whether or not mailed notice of such disapproval has not yet been received by said insurer. (3-31-22)

**c.** These provisions are only applicable to rates, policies and endorsements, which by reason of the rarity of the event, or the peculiarity of the circumstances, do not lend themselves to a general advance determination and filing of said item. Applications under this rule and the applicable statute will not be approved if it appears either that said application does not meet the standards of the statute or is such a deviation from the usual policy form or rate

most nearly applicable thereto as to be an unsound underwriting practice or an inadequate premium. (3-31-22)

**013. PREMIUM RATES AND THEIR APPLICATION.**

**01. Schedule of Premium Rates**. Each title insurer will file its schedule of premium rates (including both the taxable risk portion and the service portion) for title insurance charged the public for all policies, which premium rates commence with the lowest rate and advance by one thousand dollars ($1,000) increments. The rate schedule will include owner's, standard mortgagee and extended coverage mortgagee policies, and may include other rates. In addition, any charges made for special endorsements will be listed and the type of policy to which applicable. Filed rates will provide that where a preliminary report is issued, the order for the policy may be canceled prior to closing. The applicant may be requested to pay a cancellation fee. The premium rates for policies will only include title examination and issuance of title insurance which will be deemed to include any preliminary report, commitment to insure, binder or similar report (herein collectively called preliminary report) and the policy subsequently issued thereon. If more than one (1) chain of title is involved, an additional charge will be made for each additional chain. An additional chain is one involving property in a different block or section or under ~~a~~ different ownership within the last five (5) years. ~~(3-31-22)~~( )

**02. Issuing Binders, Commitments or Preliminary Reports**. No title insurer or title insurance agent ~~will~~ may issue a title insurance binder, commitment or preliminary report without an order. ~~(3-31-22)~~( )

**03. Amount of Owner's Policy**. An owner's policy will be issued for not less than (a) the amount of the current sales price of the land and any existing improvements appurtenant thereto, or (b) if no sale is being made, the amount equal to the value of the land and any existing improvements at the time of the issuance of the policy. If improvements are contemplated, the amount may include the cost of such improvements immediately contemplated to be erected thereon with a following pending improvement clause set forth in Schedule B of said policy and the full premium collected, which clause reduces the policy amount to the extent the improvements are not completed. The amount of policies covering leasehold estates for a term of fifty years or more will be for the full value of the land and existing improvements, and for less than fifty years will be for an amount at the option of the insured based on either the total amount of the rentals payable for the primary term but not less than five (5) years, or the full value of the land and existing improvements together with any improvements immediately contemplated to be erected thereon. The amount of policies insuring contract purchasers will be for the full value of the principal payments. Insurance of lesser estates will be written for the amount of the value of the estate at the time the policy is issued. (3-31-22)

**04. Amount of Mortgagee Policies**. A mortgagee's policy will be for not less than the full principal debt of the loan insured and at insured's request may include up to twenty percent (20%) in excess of the principal debt to cover interest, foreclosure costs, etc. Where the land covered represents only part of the security for the loan, the policy will be written for the amount of the unencumbered value of the land or the amount of the loan, whichever is the lesser. (3-31-22)

**05. Simultaneous Issuance of Owner's and Mortgagee's Policy**. When an owner's policy and a mortgage policy covering identical land are simultaneously issued, the owner's policy will bear the regular owner's rate. Premium for the mortgagee policy simultaneously issued may be for an amount less than the full mortgagee rate for the amount of insurance not in excess of the owner's policy. (3-31-22)

**06. Double Sale and Reissue**. No order ~~will~~ may be held open to cover a double sale and the premium will be charged and the policy issued on each sale, unless the conveyance on resale is recorded at the same time as the original transaction. A title insurer may file an owner's reissue rate of not less than fifty percent (50%) of the basic rate which will be applicable to any policy ordered within two (2) years of the effective date of a prior owner's or purchaser's policy naming applicant as the insured provided that the following conditions are met: ~~(3-31-22)~~( )

**a.** The prior policy or a copy thereof is presented to the issuing company and will be retained in the issuing company's file, or in the absence thereof, reasonable proof of issuance is provided the issuing company. (3-31-22)

**b.** The reissue premium will be based on the schedule of fees in effect at the time of reissue.(3-31-22)

**c.** Increased liability is to be computed in accordance with the basic schedule of fees in the applicable brackets. (3-31-22)

**07. Amount on Litigation and Foreclosure Reports**. Where a preliminary report is made for an owner's policy to be issued after a quiet title action or after a foreclosure of contracts of sale, deeds of trust or mortgages, the premium charge will be that on an owner's policy and the policy will be issued following the successful completion of the litigation or the foreclosure. A cancellation fee may be charged if the action is unsuccessful. Each such preliminary report will bear on its face as the limit of liability of the insurer, the value upon which the premium charge is based. (3-31-22)

**014. DISCLOSURE BY PRODUCER OF TITLE BUSINESS.**

**01. Disclosure of Financial Interest**. No title entity may accept any order to issue a title commitment, guarantee, title insurance policy for, or provide services including, but not limited to, escrow closing and foreclosure services, to an applicant if it knows or has reason to believe that the applicant was referred by a producer of title business, where the producer of title business has a financial interest in the title entity to which the business is referred unless the producer of title business has disclosed to the applicant the financial interest of the producer of title business. The disclosure will be made in writing and contain the items prescribed in Subsection 014.02 of this rule. (3-31-22)

**02. Disclosure Provided to Applicant**. The disclosure will be provided to the applicant at the time the sale and/or purchase contract is entered into. A signed copy of the disclosure will be maintained by the producer of title business and provided to the title entity prior to, or simultaneously with, the placing or the order for a title insurance commitment or guarantee or escrow closing services. The title entity will maintain a copy of said disclosure for a minimum period of five (5) years. The disclosure will contain the following: (3-31-22)

**a.** A heading, in bold face, all caps, type font 14 or higher that states: "NOTICE OF FINANCIAL INTEREST IN TITLE ENTITY BY PRODUCER OF TITLE BUSINESS." (3-31-22)

**b.** A statement in type 12 font or higher: "We call this interest to your attention for disclosure purposes. (Provide name of Producer of Title Business) has a financial interest in this title entity (provide title entity name). This financial interest may result in a conflict of interest in our representation of you. Accordingly, you are free to choose any other title entity which is licensed by the Idaho Department of Insurance in the county in which the property is located. A list of title insurers and title agents licensed in the county in which the property is located may be found by contacting the Idaho Department of Insurance." (3-31-22)

**c.** A statement that the Applicant has read the aforementioned disclosure and chooses to have their transaction served by the Title Entity referred by the Producer of Title Business. The disclosure will contain the signature of all applicants along with the date the signature(s) was accomplished. (3-31-22)

**015. FINANCIAL INTEREST NOTICE.**

**01. Financial Interest Notice to Director**. A title entity will notify the Director of the Department the names and addresses of all producers of title business that have a financial interest in the title entity, including the financial interest held by the producer of title business and the date the financial interest was acquired. (3-31-22)

**02. Notice Filing**. The title entity will provide the financial interest notice to the Director of the Department prior to the granting of a title agent license and upon request for renewal of a title agent license. (3-31-22)

**016. – 020. (RESERVED)**

**021. TITLE INSURANCE AGENTS AND EMPLOYEES ACTING AS ESCROW AGENTS.**

**01. Written Instructions**. An escrow agent ~~will~~ may not accept funds or papers into escrow without dated written instructions signed by the parties or their authorized representatives adequate to administer the escrow account and without receiving, at the time provided with the escrow instructions, sufficient funds and documents to

carry out terms of the escrow instructions. Funds and documents deposited ~~will~~ may be used only in accordance with such written instructions. If additional instructions are needed, the agent will obtain the consent of both parties, their representatives to the escrow or an order of a court of competent jurisdiction at the expense of the escrow parties.
~~(3-31-22)~~( )

**02. Notice of Conflict of Interest**. An escrow agent will act without partiality to any of the parties to the escrow. An escrow agent cannot close a transaction where he has, directly or indirectly, a monetary interest in the subject property either as buyer or seller. If an escrow agent has a business interest in the escrow transaction other than as escrow agent, the relationship or interest will be disclosed in the written escrow instructions. After noting such interest, an additional statement will appear as follows: "We call this interest to your attention for disclosure purposes. This interest will not, in our opinion, prevent us from being a fair and impartial escrow agent in this transaction, but you are, nevertheless, free to request the transaction be closed by some other escrow agent."
(3-31-22)

**03. Closing Statement**. On completion of an escrow transaction, the agent will deliver to each principal a written closing statement signed by the agent of each principal's account. The same will show all receipts and disbursements. Any charge made by and disbursements to the escrow agent will be clearly noted. A copy will be retained. (3-31-22)

**04. Control of Funds**. An escrow agent will maintain one or more trust accounts in a federally insured financial institution into which all escrow funds received will be deposited and from which there will be drawn escrow payments. No other funds ~~will~~ may be commingled with such trust account. Escrow fees ~~will~~ may not be drawn until the escrow is completely ready to close in accordance with the escrow instructions and will be withdrawn not later than the day on which the final disbursements are made for the escrow closing. ~~(3-31-22)~~( )

**05. Escrow Accounting Procedures**. An escrow agent will maintain on a current basis (a) an escrow ledger with a separate numbered sheet for each escrow agreement and (b) an escrow liability control account. Disbursements will be posted from checks or other vouchers and each item, not the total of items, will be entered. Escrow liability control account will always balance with the escrow ledger ~~at all times~~ and will equal the balance of funds in the trust accounts for escrows at the bank. Checks cannot be drawn against an escrow account without sufficient credit balance for the particular escrow existing at the time. Funds ~~will~~ may not be transferred between escrow agents except by writing checks and receipts which are charged and credited respectively to accounts with the reason noted and the authority therefor. All services will be performed and the escrow account ready to close before any service or escrow fees may be charged and drawn from an escrow account (unless an escrow is a long term collection, and fees are payable monthly or annually). The escrow funds will be placed in the trust accounts for escrows and no other funds commingled therewith. All entries in any escrow account will be posted the date of the entry without regard of the date of posting, but all entries will be posted daily. ~~(3-31-22)~~( )

**06. Escrow Records**. Each escrow agent will maintain in each escrow transaction: (3-31-22)

**a.** Evidence of all funds received including copies of all instruments, which will include pre-numbered cash receipts, copies of cashier's checks, wire transfer confirmations or evidence of unconditional payment of checks, as applicable; (3-31-22)

**b.** Complete evidence of all funds disbursed which will include check stubs or check copies, and wire instructions for all disbursements as applicable; and (3-31-22)

**c.** A final ledger sheet for each escrow transaction listing all items received and disbursed. All records will be available for audit, inspection and examination by the Director upon demand, and all records will be preserved for not less than six (6) years from the closing date of the escrow. (3-31-22)

**07. Bond**. Before a license will be issued to a title insurance agent, such agent will comply with the requirements for a bond pursuant to Section 41-2711. Such bond may be in the form that continues from year to year until canceled. ~~In lieu of a bond, cash or securities as herein defined may be deposited with the Director of Insurance.~~ The Director of Insurance approves the following securities which are eligible for deposit in place of the bond: Cash in the form of a cashier's check, any public obligation as defined in Sections 41-707 and 41-708, Idaho Code, and the assignment of any savings deposits or certificates of deposit as defined in Section 41-720, Idaho Code. In each case,

such deposit will be accompanied by a statement that such deposit is made to meet the compliance of Section 41-2710, Idaho Code, and may be liquidated to meet the obligations of said section. Said cash or security in lieu of the bond will be deposited with the director pursuant to Section 41-804, Idaho Code, except that the cash will be deposited with the state treasurer for the account of the bond of said depositing agent. ~~(3-31-22)~~( )

**08. Cancellation of Bond**. A title insurance agent's bond may provide for cancellation thereof upon notice of not less than thirty days to the Insurance Director and to the licensed agent. Upon such notice being received, the licensed title insurance agent will provide a new bond in place thereof before the cancellation of the current bond, and in the event of failure to do so, the license of the title insurance agent will be deemed suspended on the date of the expiration of such bond, and until a replacement bond has been issued and delivered to the Director of Insurance. (3-31-22)

**09. Disbursement of Funds or Documents ~~F~~from Escrow -- Requirement for Collected Funds**. ~~(3-31-22)~~( )

**a.** Notwithstanding any agreement to the contrary, no disbursement of funds or delivery of documents from an escrow for recording or otherwise may be made unless the escrow contains a credit balance consisting of collected funds, other than funds of the escrow agent or its affiliates, sufficient to discharge all monetary conditions of the escrow. The requirement of collected funds does not apply to collection or long term escrows. (3-31-22)

**b.** Notwithstanding any other provision of Section 021, an escrow agent may advance its own funds in an aggregate amount not to exceed one thousand dollars ($1000) to pay incidental expenses incurred with respect to the escrow. (3-31-22)

**022. ESCROW FEES.**

Title insurers and title insurance agents ~~will~~ may not charge less than the fees filed with the Department of Insurance for a specified escrow service, as such service is defined in the title insurer's or title insurance agent's filed schedule of fees. Each title insurer and title insurance agent will file its schedule of escrow fees charged for all escrow and closing services rendered on a yearly basis due March 15 reflecting experience from the previous calendar year. Fees should include a title entity's basic rate, minimum rate and negotiable rate with respect to different types of closings and should not reflect credits of any kind with regard to different classifications of customers. The fee will be based upon the full sales price in the event of a sale, or the amount of the loan in the event of a mortgage and ~~will~~ may not be less than the title entity's cost for providing that service. Fees for escrow and closing services will not include preparation of instruments. Property in different ownerships always, and noncontiguous properties generally, are rated separately. Additional fees will be charged where the minimum fee is inadequate because of the unusual complications of the transactions. Fees may also be filed throughout the year as often as necessary as determined by the title entity. Fee filings in these instances will be filed at least thirty (30) days prior to implementation of the fees. ~~(3-31-22)~~( )

**023. -- 030. (RESERVED)**

**031. REBATES AND ILLEGAL INDUCEMENTS.**

**01. Items of Value**. A title entity ~~will~~ may not provide items of value to a producer of title business, consumer or member of the general public except as permitted in Sections 031.02, 031.03, 031.04 and 031.05 of this chapter. If a providing of things of value does not clearly fit into the rules in Sections 031.02, 031.03, 031.04, and 031.05, then it is not allowed. Exhibit 1, located on our website at https://doi.idaho.gov/, is a partial, but not all-inclusive, list of acts and practices that are considered illegal inducements disallowed by Title 41, Idaho Code. ~~(3-31-22)~~( )

**02. Permitted Consumer Information**. To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: (3-31-22)

**a.** Listing Package is a single copy of a listing package, property profile, or similarly named packet of information and will consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following seven (7) items: (3-31-22)

i. The last deed appearing of record; (3-31-22)

ii. Deeds of trust or mortgages which appear to be in full force and effect; (3-31-22)

iii. A plat map reproduction and/or a locater map; (3-31-22)

iv. A copy of applicable restrictive covenants; (3-31-22)

v. Tax information; (3-31-22)

vi. Property characteristics such as number of rooms, square footage and year built; and (3-31-22)

vii. Photographs, including aerial, of the property. (3-31-22)

**b.** A listing package may include no more than the seven (7) above described items of information and ~~will~~ may not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. Photographs may be provided, but only if the title entity does not pay a separate fee or provide any other consideration to a person for that product or service. The title entity may provide any photographs that are acquired through normal subscriptions or licensing fees associated with obtaining access to county records for tax information, property characteristics, or plat maps, as long as there is no additional charge to the title entity for the production, reproduction or delivery of the photographs. A generic cover letter with the printed standard letterhead of the title entity may be attached to the listing package. The cover letter may include a brief statement identifying by name only, which of the seven (7) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or listing package is strictly limited to the foregoing and ~~will specifically~~ may not include any advertising or marketing for the benefit of the recipient. ~~(3-31-22)~~( )

**c.** Market value information, demographics, additions, addenda, photographs (other than as described in Paragraph 031.02.b) or other attachments, which attachments may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances, may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished. (3-31-22)

**d.** A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge; (3-31-22)

i. A plat map reproduction; (3-31-22)

ii. A copy of applicable restrictive covenants; (3-31-22)

iii. The last deed appearing of record; and (3-31-22)

iv. A cover letter as described in Paragraph 031.02.b. (3-31-22)

**03. Advertising With Trade Associations**. (3-31-22)

**a.** No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade association publication is only permitted if the publication is an official publication, published or distributed by, or on behalf of the trade association with at least regular annual publications. The publications should be nonexclusive (any title entity will have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad will be purely self-promotional. (3-31-22)

**b.** A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation should be made of all members and

affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars ($2,000) or equivalent things of value collectively to all trade associations per year. In addition, a title entity is allowed to participate in or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, award banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities and all other similar activities. (3-31-22)

**04. Self-Promotional Advertising**. (3-31-22)

**a.** A title entity may distribute self-promotional items having an acquisition value of less than twenty-five dollars ($25) to producers of title business, consumers, and members of the general public. These self-promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food, beverages, gift certificates, gift cards, or other items that have a specific monetary value on their face or that may be exchanged for any other item having a specific monetary value. Self-promotional items ~~will~~ may not contain the name, logo or any reference to a producer of title business, trade association or done.
~~(3-31-22)~~( )

**b.** Self-promotional functions are limited to the following two (2) types of functions: (3-31-22)

i. A title entity is permitted to conduct educational programs. The education programs ~~will~~ may only address title insurance and escrow and other topics related thereto. A title entity is permitted to expend no more than twenty dollars ($20) per person at an educational program. For purposes of determining the maximum permitted expenditure, all costs associated with the delivery of the educational program is considered, including but not limited to, costs paid by the entity for travel, refreshments, instructor or speaking fees and facility rental. A title entity may participate in or make presentations at educational programs which are conducted or presented by other entities. The title entity is not permitted to expend any money to sponsor or cosponsor these programs, unless the educational program is a trade association event in which case Subsection 031.03.b of this chapter will apply. ~~(3-31-22)~~( )

ii. A title entity is permitted to have two (2) open houses per year. An open house is a self-promotional function at the title entity's owned or occupied facility (i.e., a Christmas party or any party, an open house for remodeling of its facility, an open house for a new building to become the title entity's facility). It is nonexclusive (all producers of title business are invited). A title entity will not expend more than fifteen dollars ($15) per guest per open house. A title entity ~~cannot~~ may not combine permitted expenditures for two (2) open houses to be used for one (1) open house. ~~A title entity also cannot~~ In addition, no accumulate~~e~~ion ~~left over~~ or unused expenditures from one (1) open house ~~and~~ may be used ~~those expenditures~~ for a second open house. ~~(3-31-22)~~( )

**05. Permitted Business Entertainment**. A title entity ~~will~~ may not expend more than one hundred dollars ($100) per person per day for all meals and/or events. Meals and events ~~will~~ include, but are not ~~be~~ limited to, breakfast, brunch, lunch, dinner, cocktails, sporting events, sporting activities, trips and music and art events. These meals or events may occur on or off the title entity's premises. In addition, a title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day. Spouses and/or guests of the producers of title business or employees or agents are included in the count for purposes of determining the four (4) person maximum. In addition, a person ~~cannot~~ may not be entertained ~~by a title entity~~ more than three (3) days during any ten (10) day period of time. For purposes of determining the maximum permitted expenditure, all costs associated with any meals or events will be considered. This ~~will~~ include~~s~~, but is not ~~be~~ limited to, costs paid by the title entity for travel, transportation, hotel, equipment or facility rental, meals, cocktails, refreshments, registration or entry fees and event tickets. Entertainment permitted under this rule ~~cannot~~ may not be conditional upon or compensation for forwarding or directing title business to the title entity. ~~(3-31-22)~~( )

**06. Locale of the Title Insurer or Title Insurance Agent Employees**. A title entity ~~will~~ may not have any of its employees working in a work space location owned or leased by a producer of title business unless:
~~(3-31-22)~~( )

**a.** The space is secured by a bona fide written lease or rental agreement. (3-31-22)

**b.** The space is separate from and can be secured against access by other occupants of the premises. (3-31-22)

**c.** The rental paid for the workspace is consistent with prevailing rental payments for similar space in the market area of the location of the work space. (3-31-22)

**d.** The rental is not dependent on volume of business and is paid only in cash (~~rental cannot be paid~~not by trade or barter). ~~(3-31-22)~~( )

**e.** The space is open to the conduct of business with any producer of title business or consumer. (3-31-22)

**f.** There is no sharing of employees. (3-31-22)

**g.** There is no common usage of space or equipment between the title entity and the producer of title business without a proportionate share of cost, rent, or expense paid by each party. (3-31-22)

~~**07. Penalty**. This Section emphasizes and restates the general penalties authorized pursuant to Title 41, Idaho Code, for violations of the anti-rebate and anti-illegal inducement laws. (3-31-22)~~

~~**a.** Section 41-2708(3), Idaho Code, provides that each person and entity giving or receiving a rebate, illegal inducement, or a reduction in rate is liable for three (3) times the amount of such rebate, illegal inducement, or reduced rate. In addition to this penalty, a title entity may also be subject to an administrative penalty as outlined below. (3-31-22)~~

~~**b.** Section 41-327, Idaho Code, provides that the Director may impose an administrative penalty not to exceed five thousand dollars ($5,000) and/or suspend or revoke an insurer's certificate of authority if the Director finds, after a hearing thereon, that the insurer has either violated or failed to comply with the Insurance Code. (3-31-22)~~

~~**c.** Section 41-1016, Idaho Code, provides that the Director may impose an administrative penalty not to exceed one thousand dollars ($1,000) and/or suspend or revoke an agent's license if the Director finds, after a hearing thereon, that the agent has either violated or failed to comply with the Insurance Code. (3-31-22)~~

**032. DISSEMINATION.**
All title entities are instructed to distribute a copy of this rule to every employee that may be engaged in activities requiring knowledge of its contents, and to instruct all employees in its scope and operation. (3-31-22)

**033. -- 999. (RESERVED)**

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.06.06 – SURPLUS LINE RULES

## DOCKET NO. 18-0606-2401 (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 41-1232, Idaho Code.

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

**Monday, September 23, 2024**
**2:00 p.m. - 3:30 p.m.(MT)**

**In-person participation is available at:**
**Idaho Department of Insurance**
**700 W. State St., 3rd Floor**
**Boise, ID 83702**

**Web Meeting Link:**
**Click here to join the meeting**
**Meeting ID: 259 030 737 919 Passcode: PWSpjG**
Download Teams | Join on the web

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

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

This rule provides procedures for the placement of surplus line insurance.

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

No fee or charge imposed or increased.

**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: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, Volume 24-7, pages 114-115 under docket number 18-ZBRR-2401.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.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 September 25, 2024.

DATED this 2nd day of August, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0606-2401**
**(ZBR Chapter Rewrite)**

## 18.06.06 – SURPLUS LINE RULES

**000. LEGAL AUTHORITY.**
~~Title 41, Chapter 12~~Section 41-1232, Idaho Code. ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

**~~01.~~ ~~Title~~.** ~~IDAPA 18.06.06, "Surplus Line Rules."~~ ~~(3-31-22)~~

**~~02.~~ ~~Scope~~.** ~~Provide procedures for the placement of surplus line insurance.~~ ~~(3-31-22)~~( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**
In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: (3-31-22)

**~~01.~~ ~~Open Lines for Export~~.** ~~"Open Lines for Export" is defined as the class or classes of business which the Director has declared eligible for export in accordance with Section 41-1216, Idaho Code.~~ ~~(3-31-22)~~

**~~02.~~ ~~Lines Other Than Open Lines for Export~~.** ~~"Lines Other Than Open Lines for Export" is defined as the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with Title 41, Chapter 12, Idaho Code.~~ ~~(3-31-22)~~

0~~3~~1. **Diligent Search**. A Broker has exercised their obligations under Section 41-1214(2), Idaho Code, if the Broker or the referring insurance producer submits a risk to at least one (1) authorized company engaged in writing in Idaho the type of coverage sought, or if there are no companies engaged in writing such coverage, the risk is submitted to at least one (1) company that, in the Broker's or producer's professional judgment, is the most likely to accept the risk. (3-31-22)

0~~4~~2. **Delegated Contractor**. Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code. (3-31-22)

**011. BIENNIAL LICENSE.**
The Idaho license of a resident or non-resident Broker is to be renewed every two (2) years. ~~The original license fee and the renewal fee are prescribed in IDAPA 18.01.02.~~ A broker will not solicit surplus line business before being licensed as a Broker. A broker will notify the Licensing Division of the Department if not renewing the license prior

to the license renewal date to settle any taxes or filing requirements. ~~The Director may allow the continuation of a non-renewed license if, within one (1) year after the renewal date, the licensee submits a renewal request and a continuation fee twice the amount prescribed by Section 41-1008(3), Idaho Code.~~ ~~(3-31-22)~~( )

**012. ANNUAL REPORT.**
~~Each Broker will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved form~~The information required in each Broker's annual report is incorporated into and will be filed with the Annual Statement of Premium Taxes, both due March 1 of each year. ~~(3-31-22)~~( )

**013. PAYMENT OF STATE TAX.**

~~**01. Tax Due March 1.** On or before March 1st of each year, each licensed Broker will pay premium tax to the Department on business written during the preceding calendar year, which tax will be collected from the insured, in addition to the stamping fee.~~ ~~(3-31-22)~~

~~**02. Tax Summary.**~~ By February 1~~st~~ of each year, the delegated contractor will provide to each Broker a summary of records showing the state tax due to the Department for the preceding year and ~~this amount will be paid to the Department~~ owed by the Broker. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount will be paid to the Department. ~~(3-31-22)~~( )

**014. PAYMENT OF STAMPING FEES.**

**01. Application**. A stamping fee is charged on all premiums and policy fees written on Idaho business at a rate established by the delegated contractor and approved by the Department. This rate may be adjusted to obtain the objectives of the delegated contractor. The stamping fee cannot be refunded except in the case of extenuating circumstances approved by the delegated contractor. (3-31-22)

**02. Summary**. Within ten (10) days following the month during which the surplus line insurance was handled through the delegated contractor, the delegated contractor will submit an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (3-31-22)

**03. Payable on Receipt**. The Stamping Fee is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (3-31-22)

**015. COLLECTION OF TAXES.**

**01. Idaho Premium Taxes**. Idaho Premium Tax will be collected from the insured. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (3-31-22)

**02. Purchasing Groups**. Purchasing groups that obtain insurance from any ~~unauthorized or authorized~~ surplus lines insurer will use an Idaho-licensed Broker. The Broker is responsible to collect and submit all taxes and fees as prescribed by this chapter. ~~(3-31-22)~~( )

**016. REPORTING TAXES AND STAMPING FEES.**
Brokers are to report premium taxes and stamping fees in increments of not less than one year. A Broker who collects quarterly or monthly payments of premiums from the insured will provide reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (3-31-22)

**017. PLACEMENT AND COMMISSIONS.**

~~**01. Basic Requirement.** All surplus line business is to be placed through a licensed Broker. Each producer of surplus line business will hold an Idaho resident or non-resident producer license.~~ ~~(3-31-22)~~

~~**02. Idaho Producer.**~~ When a producer requests placement by a licensed Broker, the commission

received and paid will be based on the mutual written agreement of the parties. ~~(3-31-22)~~( )

**018. SUBMISSION TIME PERIODS.**
All ~~affidavits, submissions, certificates, endorsements and other documents~~ filings for insurance written ~~for Open Lines for Export and Other Than Open Lines for Export~~ pursuant to Chapter 12, Title 41, Idaho Code, are to be received by the delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, the information with submission form and affidavit, if applicable, will be forwarded. The Broker is responsible for meeting this requirement. ~~(3-31-22)~~( )

**019. COMPLIANCE FOR RISKS NOT ON OPEN LINES FOR EXPORT.**
~~Pursuant to Section 41-1216, the Director will publish a list of approved classes of insurance coverage or risks.~~ If a risk does not appear on the~~is~~ Open Lines for Export list, ~~then~~ the Broker will file all the ~~normal submission forms and documents and execute the broker's affidavit~~ same filings for insurance written to Chapter 12, Title 41, Idaho Code.
~~(3-31-22)~~( )

**020. BROKER RECORDS.**
~~A full and true record of each surplus line coverage procured by each Broker is to be maintained by the Broker.~~ Reports of all documents processed by the delegated contractor will be provided on a monthly basis to the Broker. These reports, in addition to the broker's ~~copy of policies and endorsements,~~ full and true records are to be kept for a period of five (5) years and are subject to examination by the Director. ~~(3-31-22)~~( )

**021. APPROVED LIST OF INSURERS.**
~~Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves a list of unauthorized insurers, whether foreign or alien, eligible to write surplus line business in Idaho. Brokers may only place surplus line business with companies on the current list.~~ The delegated contractor will inform Brokers of ~~additions and~~ any changes to the list of eligible surplus lines insurers. ~~(3-31-22)~~( )

**022. -- 999. (RESERVED)**

# IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

## 18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE

## DOCKET NO. 18-0801-2401

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 41-211 and 41-253, Idaho Code.

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

**Monday, September 23, 2024**
**2:00 p.m. - 3:30 p.m.(MT)**

**In-person participation is available at:**
**Idaho Department of Insurance**
**700 W. State St., 3rd Floor**
**Boise, ID 83702**

**Web Meeting Link:**
**Click here to join the meeting**
**Meeting ID: 259 030 737 919 Passcode: PWSpjG**
Download Teams | Join on the web

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

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

This 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 proposed rulemaking is to make negotiated amendments to Section 017, Violation Penalties, IFC Section 110.4.

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

No fee or charge imposed or increased.

**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:

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, Volume 24-7, under pages 112-113, under docket number 18-0801-2401.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.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 September 25, 2024.

DATED this 2nd day of August, 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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0801-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE

**017. VIOLATION PENALTIES, IFC SECTION 110.4.**
In Section 110.4, replace "shall be guilty of a [SPECIFY OFFENCE], punishable by a fine of not more than [AMOUNT] dollars, or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment" with "may be charged with a misdemeanor by prosecuting authorities if the violation is not resolved after written notice by the fire code official". ~~(7-1-24)~~( )

# IDAPA 20 – IDAHO DEPARTMENT OF LANDS

## 20.03.01 – RULES GOVERNING DREDGE AND PLACER MINING OPERATIONS IN IDAHO

## DOCKET NO. 20-0301-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 20-0301-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 49 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 49**, IDAPA 20.03.01, "Rules Governing Dredge and Placer Mining Operations," the amendment to Section 051, Subsection 01, only, adopted as a pending rule under Docket Number **20-0301-2301**, is not consistent with legislative intent because the changes do not reflect statutory requirements as provided in Section 47-1317, Idaho Code, which states that "the cost and expense of making such inspections shall be borne by the permittee" and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 051 is reprinted here as affected by HCR 49 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 49.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

### 051. ENFORCEMENT AND FAILURE TO COMPLY.

**01. Inspection**. The *Director ~~Department~~* may inspect the operation under permit *from time to time* to determine compliance with the *a~~A~~*ct, these rules, *~~and~~* the permit*, and the reclamation plan*. The *~~Permittee will pay the~~* cost and expense of such inspections *will be borne by the Permittee ~~as required by Section 47-1317, Idaho Code~~*.
*(3-18-22)*

**a.** Cost of inspection is assessed at a flat rate of *two hundred and fifty ~~four hundred thirty five~~* dollars

($250~~435~~) per year for each permit. *Permits upon U.S. Forest Service administered lands is assessed at a flat rate of one hundred dollars ($100) per year for each permit, to reflect the reduced inspection work for the department.* *(3-18-22)*

**b.** A billing for inspection *costs* ~~*fees*~~ will be made in advance each May 1, with the *costs* ~~*bill*~~ due and payable within thirty (30) days of receipt *of an inspection cost statement. Inspection fees become delinquent if not paid on or before June 1, and the department may assess the greater of the following; either a twenty-five dollars ($25) late payment charge or penalty at the rate of one percent (1%) for each calendar month or fraction thereof, compounded monthly, for late payments from the date the inspection fee is due. Such costs constitute a lien upon equipment, personal property, or real property of the Permittee and upon minerals produced from the permit area. Should inspection fees be delinquent, the department will send a single notice of delinquent payment by certified mail, return receipt requested, to the Permittee. If payment is not received by the department within thirty (30) days from the date of receipt, the department may take appropriate administrative action to cancel the permit as provided by Subsection 050.02.* ~~*Fees not received by the due date are considered late.*~~ *(3-18-22)*

~~***c.*** *Late inspection fees will result in the following monthly charges:* *( )*~~

~~*i.* *A late charge of twenty-five dollars ($25) or one percent (1%) of the unpaid principal obligation, whichever is greater; and* *( )*~~

~~*ii.* *An interest charge of one percent (1%) on the unpaid principal obligation.* *( )*~~

~~***d.*** *Failure to pay the inspection fees may result in permit termination and the Department placing a lien upon the Permittee's equipment, personal property, or real property and upon minerals produced from the permit area.* *( )*~~

***c*~~***e***~~**.** Inspection *costs* ~~*fees*~~ related to a reported violation are assessed at actual costs and in addition to *those costs* ~~*the fees*~~ in Paragraph 051.01.a. Costs include mileage to and from the mine site, employee meals, lodging, personnel costs, and administrative overhead. *Costs* ~~*Fees*~~ are due and payable thirty (30) days after receipt of the inspection cost statement. *(3-18-22)*

**02. Department Remedies**. Without affecting the penal and injunctive provisions of these rules, the Department may pursue the following remedies: (7-1-24)

**a.** When the Department determines that a Permittee has not complied with the Act, these rules, or the permit the Department will notify the Permittee in writing and set forth the violations claimed and the corrective actions needed. (7-1-24)

**b.** If the Permittee fails to complete the requested corrective action or enter a cooperative agreement as per Subsection 035.07 of these rules within the timeframe given in the notice of the violation, the Director may take action to terminate the permit and forfeit the bond as provided in Sections 47-1318, 1319, and 1329, Idaho Code. (7-1-24)

**03. Injunctive Procedures**. (7-1-24)
The Director may seek injunctive relief, as provided by Section 47-1324, Idaho Code, against a Permittee or other person who violates the Act, these rules, or an approved permit. (7-1-24)

**04. Civil Penalty**. (7-1-24)

**a.** Pursuant to Section 47-1324, Idaho Code, any person violating the Act, these rules, a permit, or a related final order may be liable for a civil penalty equal to the cost of reclamation. An additional penalty of five hundred dollars ($500) to two thousand five hundred dollars ($2,500) may also be assessed for each day a violation continues. Such penalty is recoverable in an action brought in the name of the state of Idaho by the attorney general. (7-1-24)

**b.** Pursuant to Section 47-1324(f), Idaho Code, any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the Board or willfully fails, neglects, or refuses to

comply with any of the provisions of these rules, is guilty of a misdemeanor and will be punished by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000) or imprisonment, not to exceed one (1) year, or both. (7-1-24)

**05. Hearing Procedures**. (7-1-24)

**a.** Hearings under Section 47-1318, Idaho Code, will he held as directed by Title 67, Chapter 52, Idaho Code. (7-1-24)

**b.** The cost of such hearing including, but not limited to, room rental, hearing officer fees, and transcript may be assessed against the Permittee as allowed by Section 47-1318, Idaho Code. (7-1-24)

**06. Procedures for Appeals**. Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. (7-1-24)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

## DOCKET NO. 24-0801-2401 (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 54-1106 and 54-1107, Idaho Code.

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

**24.08.01 – Rules of the State Board of Morticians**

**Thursday, September 12, 2024 – 9 a.m. (MT)**
**Division of Occupational and Professional Licenses**
**Coolwater Room, Chinden Campus Building 4**
**11341 W. Chinden Blvd.**
**Boise, ID 83714**

**Virtual Meeting Link**

**Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.**

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 Board of Morticians 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:

During the 2024 Legislative session, House Bill 505 was passed by the Legislature. This bill moves all boards to a biennial renewal cycle and updates all fees set through Idaho Code from an annual rate to a biennial rate. The Idaho Board of Morticians fees are established within their administrative rules, therefore the increase of fees found in these proposed rules updates all fees within the fee table from an annual rate to a biennial rate.

Additionally, during the 2023 Legislative session, the Joint Finance Appropriations Committee required the Division to report on year-end cash balances for all boards and to present a plan for all boards where the cash balances either exceed 125% or drops below 30% of the Division's five-year rolling average of expenditures, pursuant to intent language found in Senate Bill 1201 passed by the Legislature. In response to the report and the plan, the board voted to address the board's low cash balance by adjusting the fees upwards of 20% within these proposed rules.

**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. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, Vol. 24-4, pg. 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 September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-0801-2401**
**(ZBR Chapter Rewrite)**

## 24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

**000. LEGAL AUTHORITY.**
The following rules are promulgated pursuant to Section 54-1106 and 54-1107, Idaho Code. (3-28-23)

**001. SCOPE.**
These rules govern the practice of morticians, funeral directors, and funeral establishments in Idaho. (3-28-23)

**002. -- 249. (RESERVED)**

**~~250~~100. ~~RESIDENT TRAINEE~~ LICENSURE.**
~~A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director.~~ ~~(3-28-23)~~

**01. ~~Training Requirements~~Resident Trainee**. To be licensed as a Resident Trainee, as defined in

Section 54-1112, Idaho Code, an applicant must meet the following requirements. ~~(3-28-23)~~( )

**a.** ~~Full-time employment requires that the~~To meet the twelve (12) month requirement set forth in Idaho Code 54-1109(2)(b), a Resident Trainee be employed for at least thirty-six (36) hours per week ~~for fifty (50) weeks per year~~ within ~~the~~ an Idaho mortuary where the Resident Trainee's sponsoring mortician is practicing for the entirety of any twelve (12) months within the three-year trainee period set forth in Idaho Code 54-1112(4). ~~(3-28-23)~~( )

~~i. At least three-fourths (3/4) of the Resident Trainee's training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee's knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code.~~ ~~(3-28-23)~~

~~ii~~**b.** ~~For the balance of the required hours,~~Personal supervision as required in Chapter 11, Title 54, Idaho Code, shall be defined as the sponsoring mortician, or ~~his~~ a licensed appointee, ~~must~~ being ~~immediately~~ available in person or remotely to consult with the Resident Trainee. ~~(3-28-23)~~( )

~~b~~**c.** All training must occur within Idaho. (3-28-23)

~~c~~**d.** A Resident Trainee shall not sign a death certificate. (3-28-23)

**02. Sponsoring Mortician**. A sponsoring mortician must: (3-28-23)

**a.** Be an Idaho-licensed mortician who practices in Idaho. (3-28-23)

**b.** Not serve as the sponsoring mortician for more than two (2) "Resident Trainees at any given time." ~~(3-28-23)~~( )

**c.** Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee~~, as described in Subsection 250.01, of this rule~~. ~~(3-28-23)~~( )

**d.** Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board ~~and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule~~. The sponsoring mortician must ~~promptly~~ submit a report within thirty (30) days after the period of time covered by the report ~~ends~~. ~~(3-28-23)~~( )

**e.** Promptly notify the Board in writing if a Resident Trainee's training is terminated~~, including termination due to interruption as specified in Subsection 250.05, of this rule~~ and submit a final report documenting training up to the termination date. ~~(3-28-23)~~( )

**03. Eligibility to Be Licensed**. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Division at the beginning and termination of the training period. ~~When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay.~~ ~~(3-28-23)~~( )

**04. Inactive Licenses**. Licensees may apply for inactive status by making written application and paying the established fee. ( )

**a.** 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. ( )

**b.** An inactive license holder may convert from inactive to active license status by: ( )

i. 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 ( )

ii. Paying a fee equivalent to the difference between the current inactive fee and the active renewal

fee. ( )

**05. Continuing Education**. Each Idaho licensed mortician and funeral director must successfully complete a minimum of ten (10) hours of continuing education biennially for license renewal, such hours must be verified by a certificate of attendance which may be audited by the Board. A licensee shall not be required to complete continuing education in their first renewal period after initial licensure. The continuing education must be germane to the profession and approved by the Board. The Board has discretion to exempt a licensee from this requirement for reasons of individual hardship, including health, or other good cause. Applicants seeking reinstatement must provide proof of attendance of ten (10) hours of continuing education for the previous twenty-four (24) months. ( )

**06. Funeral Establishment and Crematory Establishment**. Applicants shall submit a Board approved application form. A walk-through inspection of the establishment must be arranged and completed before the board will issue an establishment license. ( )

**a.** Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. ( )

**b.** Funeral Establishment. All funeral establishments shall be required to provide each of the following: ( )

i. An operating room and necessary equipment for embalming; ( )

ii. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ( )

iii. A chapel where funeral or other religious ceremonies may be held; and ( )

iv. A room for viewing and visitation. ( )

**c.** Crematory Establishment. All crematory establishments shall be required to provide each of the following: ( )

i. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, an appropriate purpose-built vessel with documented validation for sterilization; and ( )

ii. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. ( )

**d.** Minimum Standards. ( )

i. Reasonable Sanitation and Safety Required. No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. ( )

ii. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. ( )

iii. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. ( )

iv. Casket Not Necessary. While caskets may be used in cremation, a crematorium may develop internal requirements allowing other containers for aesthetic or sanitary reasons. ( )

v. Funeral Rule. Licensees are required to comply with Federal Funeral Industry Practices, 16 CFR Part 453, commonly known as the Funeral Rule. ( )

**251101. -- 299149.(RESERVED)**

**300. APPLICATIONS AND EXAMINATION.**
In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the Division and provide all requested documentation including proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code. (3-28-23)

**301. -- 324. (RESERVED)**

**325150. APPROVED EXAMINATION.**
Applicants for licensure shall successfully pass the examinations set forth below. (3-28-23)

**01. Mortician Examination**. The Mortician examination shall consist of: (3-28-23)

**a.** A all sections of the International Conference of Funeral Service Examining Board's National Board Examination; and. (3-28-23)( )

**b.** The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)

**02. Funeral Director**. The funeral director examination shall consist of: (3-28-23)

**a.** T the Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and. (3-28-23)( )

**b.** The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-28-23)

**03. Grading**. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-28-23)

**326. -- 379. (RESERVED)**

**380. INACTIVE LICENSE.**

**01. Request for Inactive License**. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. (3-28-23)

**02. Inactive License Status**. (3-28-23)

**a.** If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. (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 License Status**. An inactive license holder may convert from inactive to active license status by: (3-28-23)

**a.** 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)

**b.** Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-28-23)

**c.** An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the renewal fee for the certificate of authority. (3-28-23)

**381. -- 409. (RESERVED)**

**410. CONTINUING EDUCATION.**

**01. Continuing Education (CE) Requirement**. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. (3-28-23)

**a.** Each licensee certifies on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (3-28-23)

**b.** A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (3-28-23)

**c.** Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. (3-28-23)

**02. 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. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. 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)

**a.** A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. (3-28-23)

**03. Providers/Sponsors/Subjects of Continuing Education**. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but will not be limited to, the following subject areas: (3-28-23)

**a.** Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. (3-28-23)

**b.** Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. (3-28-23)

~~c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. (3-28-23)~~

~~d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. (3-28-23)~~

~~04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (3-28-23)~~

~~05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (3-28-23)~~

~~06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health or other good cause. Each 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. Request for special exemption must be made prior to licensure renewal. (3-28-23)~~

**~~411~~151. -- ~~424~~199.(RESERVED)**

**~~425~~200. ~~MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES~~PRACTICE STANDARDS.**

**01. Maintenance or Pre-Need Trust Account Services**. ~~Maintenance of pre-need trust accounts fee.~~ Pursuant to Section 54-1134(4), Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. ~~(3-28-23)~~( )

**02. Receipt for Bodies to be Cremated**. The following must be performed by the operator of a crematory upon receipt of a human body for cremation. ( )

**~~426. -- 449. (RESERVED)~~**

**~~450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT.~~**
~~Applicants shall submit a board approved application form. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-28-23)~~

~~01. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (3-28-23)~~

~~02. Funeral Establishment. All funeral establishments shall be required to provide each of the following: (3-28-23)~~

~~a. An operating room and necessary equipment for embalming; (3-28-23)~~

~~b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (3-28-23)~~

~~c. A chapel where funeral or other religious ceremonies may be held; and (3-28-23)~~

~~d. A room for viewing and visitation. (3-28-23)~~

~~03. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human~~

body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (3-28-23)

a. The price of the service that the person or persons have selected and what is included therein. (3-28-23)

b. The prices of each of the supplementary items of service and/or merchandise requested. (3-28-23)

c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (3-28-23)

d. The method of payment. (3-28-23)

e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (3-28-23)

04. **Crematory Establishment**. All crematory establishments shall be required to provide each of the following: (3-28-23)

a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, an appropriate purpose-built vessel with documented validation for sterilization; and (3-28-23)

b. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. (3-28-23)

**451. (RESERVED)**

**452. MINIMUM STANDARDS.**

01. **Reasonable Sanitation and Safety Required**. No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. (3-28-23)

02. **Delay Before Cremation**. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. (3-28-23)

03. **Embalming**. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (3-28-23)

04. **Casket Not Necessary**. It is not necessary for the body to be in a casket for cremation to take place. (3-28-23)

a. This is not to be construed to mean that the crematory must cremate without a casket; and (3-28-23)

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (3-28-23)

**453. RECEIPT FOR BODIES TO BE CREMATED.**

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (3-28-23)

01a. **Provide a Receipt**. A receipt must be delivered to the licensed mortician or funeral director, his

agent, or another person who delivers such body to the crematory. ~~(3-28-23)~~( )

~~02~~b. ~~Contents of Receipt.~~ The receipt must show: ~~(3-28-23)~~( )

~~a~~i. The name of the decedent whose body was received; and (3-28-23)

~~b~~ii. The date on which that body was received; and (3-28-23)

~~c~~iii. The place where that body was received; and (3-28-23)

~~d~~iv. The name and address of the funeral establishment from whom that body was received; and (3-28-23)

~~e~~v. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. (3-28-23)

## ~~454. RECORDS OF BODIES.~~

0~~1~~3. ~~Content of Record~~Records of Bodies. Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: ~~(3-28-23)~~( )

**a.** The name of the decedent; ~~and~~ ~~(3-28-23)~~( )

**b.** The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; ~~and~~ ~~(3-28-23)~~( )

**c.** ~~A statement as to whether or not the body was embalmed; and~~An embalming report or refrigeration log which shows the date(s) and time(s) a body was placed into or removed from refrigeration. ~~(3-28-23)~~( )

**d.** The date of the burial, cremation, or other disposition of that body; and (3-28-23)

**e.** The ~~subsequent disposal~~ custodial transfer of any cremated remains, including the name and signature of the recipient and date of transfer. ~~(3-28-23)~~( )

## ~~455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.~~

0~~1~~4. **Responsibility for Record**. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. (3-28-23)

0~~2~~5. **Inspection of Records**. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. (3-28-23)

## ~~456~~201. -- ~~499~~299.(RESERVED)

## 300. DISCIPLINE.

The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensee for each violation of Section 54-1116, Idaho Code. ( )

## 301. -- 399. (RESERVED)

## ~~500~~400. FEES.

| FEE TYPE | AMOUNT (Not to Exceed) |
|---|---|
| Funeral Director | $~~85~~200 |
| Funeral Establishment | $~~125~~300 |
| Crematory Establishment | $~~200~~480 |
| Mortician | $~~85~~200 |
| Inactive License | $~~40~~90 |
| Resident Trainee | $~~50~~120 |
| Application Fee | $~~100~~120 |
| Certificate of Authority | $~~50~~120 |

(3-28-23)

~~**501. DISCIPLINE.**~~

~~The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensee for each violation of Section 54-1116, Idaho Code.~~ ~~(3-28-23)~~

**~~502~~401. -- 999. (RESERVED)**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

## DOCKET NO. 24-1401-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 24-1401-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 39 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 39**, IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners," the amendment to Section 450, Subsection 02.a. (renumbered and codified now as Paragraph 200.04.i.), only, adopted as a pending rule under Docket Number **24-1401-2301**, is not consistent with legislative intent and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 450 (codified now as Section 200) is reprinted here as affected by HCR 39 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 39.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~*.**

### 200. PRACTICE STANDARDS.

**01. Baccalaureate Social Work**. The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. (7-1-24)

**02. Master's Social Work**. The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist. (7-1-24)

**03. Clinical Social Work**. The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning, including psychotherapy, of individuals, couples, families, and small groups. (7-1-24)

**04. Code of Professional Conduct**. (7-1-24)

**a.** A social worker must operate within their education, training, and experience and meet the applicable standard of care provided by other qualified social workers in the same or similar community and under the same or similar circumstances. A standard of care violation may exist where a social worker engages in professional conduct that a reasonable social worker would not under the same or similar circumstances and in the same or similar community, or where the social worker knew or should have known the professional conduct would cause unreasonable harm to the client. (7-1-24)

**b.** When a social worker leaves an agency or practice, clients must be provided prompt notice and the opportunity to remain with the agency or practice, or to continue care with the social worker. (7-1-24)

**c.** A social worker will not divide a fee or accept or give anything of value for receiving or making a referral. (7-1-24)

**d.** A social worker will provide clients with accurate and complete information regarding the extent and nature of the services available to them. (7-1-24)

**e.** While a social worker may terminate, transfer, or refer a client when the services are no longer needed or in the client's best interests, prompt notification should be provided to the client. The social worker must attempt to make appropriate referrals as indicated by the client's need or request for services. (7-1-24)

**f.** A social worker may not exploit, sexually or otherwise, their professional relationships with clients, supervisees, former clients, supervisors, students, employees, or research participants. (7-1-24)

**g.** A social worker may not engage in romantic or sexual acts with a client during and for ten (10) years following termination of a social worker's services. A social worker must not provide social work services to a person with whom they have had a romantic or sexual relationship. (7-1-24)

**h.** A social worker may not engage in romantic or sexual acts with a relative of a client, or a person known to the social worker to have a close personal relationship with the client when it has the potential to be harmful to the client, during and for three (3) years following termination of a social worker's services. (7-1-24)

**i.** In providing services, a social worker may not discriminate on the basis of age, gender, ~~*gender identity, sexual orientation,*~~ race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. *(3-28-23)*

**j.** A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in a research project. A social worker must explain the research, including any implications. (7-1-24)

**k.** A social worker must obtain informed consent of clients before taping, recording, or permitting third party observation. (7-1-24)

**l.** A social worker must safeguard information given by clients in providing client services. (7-1-24)

**m.** A social worker, regardless of personal or professional relationship, must report a licensee's violation of the Board's law or rules. (7-1-24)

**n.** A social worker may not disseminate or cause the dissemination of any fraudulent or deceptive advertisement. (7-1-24)

**o.** A social worker may not engage in dual or multiple relationships with clients or with relatives of a client, or with individuals with whom clients have close personal relationships known to the social worker, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker's objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment determines that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker's objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, and the potential benefits. (7-1-24)

**p.** A social worker may not purchase goods or services from a client or otherwise engage in a business relationship with a client except when 1) the client is providing necessary goods or services to the general public; 2) a reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and 3) a reasonable and prudent social worker would conclude after appropriate and documented assessment that engaging in the business relationship will not be detrimental to the client or the professional relationship. (7-1-24)

**05. Competency**. (7-1-24)

**a.** A social worker must only represent themself and practice in a competent manner within the boundaries of their education, training, licensure level, supervision, and other relevant professional experience. (7-1-24)

**b.** A social worker must only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. (7-1-24)

**c.** A social worker must exercise careful judgment when generally recognized standards do not exist with respect to an emerging area of practice and take responsible steps to ensure the competence of his practice. (7-1-24)

# 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 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 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.

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

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

**Tuesday, October 8, 2024 – 9 a.m. (MT)**
**Division of Occupational and Professional Licenses**
**Eaglerock Room, Chinden Campus Building 4**
**11341 W. Chinden Blvd.**
**Boise, ID 83714**

**Virtual Meeting Link**

**Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.**

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 Liquefied Petroleum Gas Safety 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:

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. 24-2201-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, Vol. 24-7, pg. 217-218.

**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 September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-2201-2401**
**(ZBR Chapter Rewrite)**

## 24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

**000. LEGAL AUTHORITY.**
These rules are promulgated pursuant to Sections 67-2614, 67-9406, and 67-9409, 54-5310, Idaho Code.
~~(3-28-23)~~( )

**001. SCOPE.**
These rules govern the Idaho Liquefied Petroleum Gas Public Safety Act. (3-28-23)

~~**002. -- 003. (RESERVED)**~~

**0042. INCORPORATION BY REFERENCE.**
The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board's office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. (3-28-23)

**0053. -- 174099. (RESERVED)**

**100. LICENSURE.**

**01. Education and Examination**. Each applicant must provide proof that they have successfully completed the following: ( )

**a.** The Fundamentals of Propane Training provided by the Propane Education and Research Council, or equivalent as approved by the Board; and ( )

**b.** Receipt of a passing grade on the Fundamental of Propane Training examination provided by the propane Education and Research Council or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. ( )

**02. Supervised Practical Experience**. Each applicant must provide certified proof that the applicant has obtained at least two thousand (2,000) hours of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. ( )

**03. Endorsement**. Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. ( )

**04. Dealer-in-Training License**. An individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. ( )

**05. Facility Licensure and Operation Requirements**. ( )

**a.** Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; ( )

**b.** Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; ( )

**c.** Each facility must meet all requirements of NFPA 58. ( )

**06. Facility Changes in Ownership or Location**. ( )

**a.** Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. ( )

**b.** Deletion of an owner from multiple ownership does not constitute a change in ownership. ( )

**c.** Addition of an owner to multiple ownership does constitute a change in ownership. ( )

**d.** Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. ( )

**07. General Liability Insurance Requirement**. No facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars ($1,000,000) for an occurrence. The Board may conduct random audits. ( )

## 300. DISCIPLINE.

**01.** **Civil Fine**. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) for each violation of Section 54-5315, Idaho Code. ( )

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

**~~175~~400. FEES.**
All fees are non-refundable:

| FEE TYPE | AMOUNT (Not to Exceed) | RENEWAL (Not to Exceed) |
|---|---|---|
| **Application** | **$30** | |
| **Individual License** | **$75** | **$75** |
| **Endorsement** | **$75** | |
| **Dealer-in-training** | **$50** | |
| **Facility License** | **$100** | **$100** |
| **Bulk Storage Facility** | **$400** | **$400** |
| **Facility Reinspection** | **$125** | |

(3-28-23)

**~~176. -- 224.~~** **~~(RESERVED)~~**

**~~225. APPROVED EDUCATION AND EXAMINATIONS.~~**
~~Each applicant must provide certified proof that they have successfully completed the following:~~ ~~(3-28-23)~~

**~~01.~~** **~~Basic Education~~**. ~~The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application.~~ ~~(3-28-23)~~

**~~02.~~** **~~Licensure Examination~~**. ~~Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application.~~ ~~(3-28-23)~~

**~~226. -- 249.~~** **~~(RESERVED)~~**

**~~250. PRACTICAL EXPERIENCE.~~**

**~~01.~~** **~~Supervised Practical Experience~~**. ~~Each applicant must provide certified proof that the applicant has successfully obtained at least one (1) year of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience.~~ ~~(3-28-23)~~

**~~02.~~** **~~Dealer-in-Training License~~**. ~~An individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue.~~ ~~(3-28-23)~~

**~~251. -- 349.~~** **~~(RESERVED)~~**

~~350. FACILITY LICENSURE.~~

~~01. Facility Licensure and Operation Requirements.~~ (3-28-23)

~~a. Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business;~~ (3-28-23)

~~b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas;~~ (3-28-23)

~~c. Each facility must meet all requirements of NFPA 58.~~ (3-28-23)

~~02. Facility Changes in Ownership or Location.~~ (3-28-23)

~~a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE.~~ (3-28-23)

~~b. Deletion of an owner from multiple ownership does not constitute a change in ownership.~~ (3-28-23)

~~c. Addition of an owner to multiple ownership does constitute a change in ownership.~~ (3-28-23)

~~d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application.~~ (3-28-23)

~~351. -- 354. (RESERVED)~~

~~355. GENERAL LIABILITY INSURANCE REQUIREMENT.~~
~~No facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars ($1,000,000) for an occurrence. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy.~~ (3-28-23)

~~01. Original Facility License Application.~~ An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (3-28-23)

~~02. Renewal of Facility License.~~ All licenses being renewed must certify that the facility holds a current general liability insurance policy. (3-28-23)

~~356~~401. -- ~~374~~499.(RESERVED)

~~375~~500. INSPECTION RULES.
All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. In the event of non-compliance necessitating re-inspection, the Board may assess a re-inspection fee. (3-28-23)

~~376. -- 399. (RESERVED)~~

~~**400. ENDORSEMENT.**~~

~~Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision.~~ ~~(3-28-23)~~

~~**401. -- 449. (RESERVED)**~~

~~**450. DISCIPLINE.**~~

~~**01. Civil Fine**. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code.~~ ~~(3-28-23)~~

~~**02. Costs and Fees**. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code.~~ ~~(3-28-23)~~

**~~451~~501. -- 999. (RESERVED)**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.30.01 – IDAHO ACCOUNTANCY RULES

## DOCKET NO. 24-3001-2401

## 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 Title 54, Chapter 2, Idaho Code.

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

**24.30.01 – Idaho Accountancy Rules**

**Thursday, September 12, 2024 – 9 a.m. (MT)**
**Division of Occupational and Professional Licenses**
**Coolwater Room, Chinden Campus Building 4**
**11341 W. Chinden Blvd.**
**Boise, ID 83714**

**Virtual Meeting Link**

**Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.**

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:

An amendment to Rule 104.01 and Rule 104.02 to extend the timeframe to pass all four parts of the Certified Public Accountants (CPA) examination from 18 months to 30 months to allow candidates more time to prepare and complete the exam, as well as grant the board more flexibility to allow candidates to be granted an extension for good cause shown or circumstances outside of their control.

An amendment to Rule 002.02 Incorporation by Reference to update the Statement on Standards for CPE Requirements from the 2019 Edition to the 2024 Edition. These standards were approved by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

**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. 24-3001-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the

June 5, 2024, Idaho Administrative Bulletin, Vol. 24-6, pg. 74-75.

**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 proposed rules update the Statement on Standards for CPE Requirements from the 2019 Edition to the 2024 Edition. These standards were approved by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

**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 September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3001-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 24.30.01 – IDAHO ACCOUNTANCY RULES

**002. INCORPORATION BY REFERENCE.**
The following documents are hereby incorporated by reference into IDAPA 24.30.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. (3-28-23)

**01. AICPA Standards**. The AICPA Professional Standards as applicable under the circumstances and at the time of the services, except as superseded by Section 54-206(8), Idaho Code. (3-28-23)

**02. CPE Standards**. ~~2019~~ 2024 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. ~~(3-28-23)~~( )

**03. PCAOB Standards**. The Standards issued by the Public Company Accountability Oversight Board, as applicable under the circumstances and at the time of the services. (3-28-23)

***(BREAK IN CONTINUITY OF SECTIONS)***

**104. TESTING PERIOD AND CREDIT.**

**01. CPA Examination Credit**. Candidates are to pass all four (4) test sections of the CPA Examination with a grade of seventy-five (75) or higher within a~~n eighteen~~ thirty-month period which begins on the actual date of notification of a passing score result. Candidates who do not sit and ultimately receive a passing score on all four (4) sections of the CPA Examination within the ~~eighteen~~ thirty-month period lose credit for any test section(s) passed outside the ~~eighteen~~ thirty-month period and that test section(s) is to be retaken. ~~(3-28-23)~~( )

**02. Extending the Term of Credit**. The Board may extend the term of credit validity upon demonstration by the candidate that the credit was lost by reason of circumstances beyond the candidate's control or other good cause shown. ~~(3-28-23)~~( )

**03. Transfer of Credit**. An applicant may submit the results of any test section of the CPA Examination taken by the applicant in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same test section and in accordance with the provisions of Section 54-210, Idaho Code, and these rules. (3-28-23)

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

## DOCKET NO. 24-3201-2401 (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, 54-1208(1), Idaho Code, and 55-1606, 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 September 18, 2024.

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 Board of Professional Engineers and Professional Land Surveyors 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.

Due to the volume of reformatting of the rule chapter, the redline version of the rules provided in the bulletin will show many sections of the current rules being struck and added back in as new text as they are moving to new sections for consistent formatting. A redlined document to show what changes were made can be found at insert link here.

**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. 24-3201-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, Vol. 24-6, pg. 76-77.

**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 September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3201-2401**
**(ZBR Chapter Rewrite)**

## 24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

**000. LEGAL AUTHORITY.**
These rules are promulgated pursuant to Sections 54-1208(1), 55-1702(1), ~~and~~ 55-1606, 67-2614, 67-9406, and 67-9409, Idaho Code. ~~(3-28-23)~~( )

**001. SCOPE.**
These rules ~~include procedures of the Board, rules of professional responsibility, rules of continuing professional development, rules for coordinate system of land description, and rules for properly completing corner perpetuation and filing forms~~ cover the procedures of the board and the practice of professional engineering and land surveying in the State of Idaho. ~~(3-28-23)~~( )

~~**002. – 009. (RESERVED)**~~

**0~~1~~02. DEFINITIONS.**
The following terms are used as defined below: (3-28-23)

**01.** ~~**Certificate Holder**~~**ANSAC**. ~~Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a "person") holding a current certificate of authorization, which has been duly issued by the Board~~ Applied and Natural Science Accreditation Commission. ~~(3-28-23)~~( )

**02. Deceit**. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-28-23)

**03. EAC-ABET**. Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology. ( )

**04. ETAC**. Engineering Technology Accreditation Commission. ( )

**0~~3~~5. Incompetence**. Failure to meet the standard of care. (3-28-23)

~~**04. Licensee**. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board.~~ ~~(3-28-23)~~

**0~~5~~6. Misconduct**. A violation or attempt to violate these rules or statutes applicable to the practice of engineering or surveying, or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond

within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. (3-28-23)

**07.** **NCEES**. National Council of Examiners for Engineering and Surveying. ( )

**003 – 099.** **(RESERVED)**

**100.** **LICENSURE.**

**01.** **Qualifications for Licensure**. ( )

**a.** Completion of Application. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. ( )

**b.** Submittal of Applications and Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required. NCEES examinations. ( )

i. Only experience up to the date of submittal of the application for licensure will be considered as valid, unless otherwise approved by the Board. ( )

ii. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with required educational credentials. ( )

**c.** Minimum Boundary Survey Experience. Two (2) years of the required four (4) years of experience must be boundary survey experience as a condition of professional land surveyor licensure. ( )

**02.** **Educational Requirements**. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire is considered in the determination of the applicant's eligibility. Prescriptive education requirements are as follows: ( )

**a.** In regard to educational requirements, the Board will unconditionally approve only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor's degree programs accredited by the Canadian Engineering Accrediting Board, or those bachelor's degree programs that are accredited by official organizations recognized by the U.K. Engineering Council. ( )

**b.** Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits but are not considered equal to engineering programs accredited by EAC/ABET. An applicant must have completed the following: ( )

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ( )

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, and

social responsibility. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. The Board may waive these requirements at its discretion. ( )

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ( )

**c.** In regard to educational requirements, the Board will unconditionally approve only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. Non-EAC/ETAC and non-ANSAC accredited surveying programs, related science programs, and surveying programs will be considered by the Board on their specific merits, but are not considered equal to surveying programs accredited by EAC/ETAC or ANSAC. An applicant must have completed the following: ( )

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ( )

ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not. The Board may waive these requirements at its discretion; ( )

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system, and global positioning systems. Examples of additional surveying courses include geographic information systems, land development design and planning, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. ( )

**d.** The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation must be done through an organization approved by the Board and be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.03.b. ( )

**03. Examinations.**

**a.** Two Examinations for Engineering Licensure. The examining procedure for licensure as a professional engineer consists of two (2) examinations: Fundamentals of Engineering examination; and the Principles and Practice of Engineering for professional engineer licensure. ( )

**b.** Three Examinations for Land Surveying Licensure. The examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations: the Fundamentals of Surveying examination for land surveyor intern certification; the Principles and Practice of Surveying; and the Idaho specific professional land surveying examination. A passing score on the Idaho-specific professional land surveying examination will be set by the Board. Reexamination for failed attempts may be allowed. ( )

**c.** Reexaminations. The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ( )

**04. Interstate Licensure/Comity**. ( )

**a.** Interstate Licensure Evaluation. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed in one (1) or more states, possessions or territories or the District of Columbia, will be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor's degree is required for licensure. Comity applicants must meet the education requirements and the following: ( )

i. Graduates of bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor's of engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ( )

ii. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor's degree. Such evaluation must be performed by an organization approved by the Board and at the expense of the applicant to ensure they have completed the required coursework. ( )

**b.** International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process. The Board shall determine if the professional engineering licensure process in other countries or jurisdictions is substantially equivalent. The Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer in good standing, has a minimum of eight (8) years of experience after initial licensure, provided the applicant has no criminal or outstanding disciplinary. A licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability to take disciplinary action and the willingness, availability, and capacity of a foreign licensing authority to release information to the Board in English. ( )

**c.** International Engineering Licensure Evaluation - Countries or Jurisdictions Without a Board Approved Licensure Process. Each applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions, will be considered by the Board on its merits. The applicant shall be evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. Two (2) years of the required four (4) years of experience must be in the United States, or experience working on projects requiring the knowledge and use of codes and standards similar to those in the United States validated by a professional engineer licensed in the United States. Applicants must have passed a professional engineering examination administered by NCEES. Prescriptive education requirements are as follows: ( )

i. Graduates of bachelor's of engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor's of engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, will be considered to have satisfied the education requirement for issuance of a license as a professional engineer. ( )

ii. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor's degree. Such evaluation shall be performed by an organization approved by the Board and at the expense of the applicant to ensure they have completed the required coursework. ( )

**d.** Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries are considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity. Individuals must certify or indicate to the Board their willingness to assume responsible charge. ( )

**05. Continuing Education Requirements**. The purpose of the continuing professional development requirement is to demonstrate a continuing level of competency of licensees. Every licensee, including faculty license holders, shall meet fifteen (15) PDH units per year or thirty (30) PDH units per biennium of continuing professional development as a condition for licensure renewal. A licensee may carry forward up to thirty (30) hours of excess continuing education per renewal period. Membership in a professional society will count as one (1) PDH per year, for a maximum of two (2) PDH per profession per year. A guidance document regarding PDH units shall be available on the Division's website. ( )

**06. Discontinued**, Retired, And Expired Licenses and Certificates. ( )

**a.** Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The Board will consider the reinstatement request at a hearing. ( )

**b.** Reinstatement – Nondisciplinary. Licensees who chose to convert their license to retired status not as part of a disciplinary action may request reinstatement in writing. Reinstatement may require a hearing. ( )

**c.** Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules. ( )

**d.** Eligibility. Unless otherwise approved by the Board, only active licensees are eligible to convert to retired status. ( )

**e.** Discontinued Certificate of Authorization. Discontinued certificated are not eligible for reinstatement. ( )

**101. -- 199. (RESERVED)**

**200. PRACTICE STANDARDS.**

**01. Seals**. ( )

**a.** Official Seal of Board. The official seal of this Board consists of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho." ( )

**b.** Standard Seals for Engineers and Land Surveyors. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ( )

**c.** Seal for Professional Engineer/Land Surveyor. Engineers obtaining licensure as land surveyors use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ( )

**02. Responsibility to the Public**. ( )

**a.** Primary Obligation. All licensee and certificate holders must at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties.

( )

**b.** Standard of Care. Each licensee and certificate holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. ( )

**c.** Professional Judgment. If any licensee's or certificate holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder must inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. ( )

**d.** Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a licensee or certificate holder, during the course of the licensee's work, discovers a material discrepancy, error, or omission in the work of another licensee or certificate holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the licensee or certificate holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The licensee or certificate holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about the licensee's work raised by another licensee or certificate holder. In the event a response is not received within twenty (20) calendar days, the discoverer must notify the licensee or certificate holder in writing, who has another twenty (20) calendar days to respond. Failure to respond (with supportable evidence) on the part of the licensee or certificate holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the licensee or certificate holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) calendar days. A licensee or certificate holder is exempt from this requirement if their client is an attorney, and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. ( )

**e.** Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ( )

**03. Competency For Assignments**. ( )

**a.** Assignments in Field of Competence. A licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a licensee, as the prime professional, may accept an assignment requiring education or experience outside of the licensee's own field of competence, but the licensee's services are restricted to those phases of the project in which the licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the licensee's competence, a licensee may sign and seal the cover sheet for the total project only when the licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. ( )

**b.** Aiding and Abetting an Unlicensed Person. A licensee or certificate holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. ( )

**04. Conflict of Interest**. ( )

**a.** Conflict of Interest to Be Avoided. Each licensee or certificate holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the licensee or certificate holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a licensee's or certificate holder's judgment or quality of service or jeopardize the clients' interests. ( )

**b.** Compensations From Multiple Parties on the Same Project. A licensee or certificate holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for

services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. ( )

**c.** Solicitation From Material or Equipment Suppliers. A licensee or certificate holder may not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 103.02. ( )

**d.** Gratuities. A licensee or certificate holder may not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the licensee or certificate holder is responsible, which can be construed to be an effort to improperly influence the licensee's or certificate holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a licensee or certificate holder make any such improper offer. ( )

**e.** Solicitation From Agencies. A licensee, a certificate holder, or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of the licensee's organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a licensee or certificate holder. ( )

**f.** Professional Services Decisions of Agencies. A licensee, certificate holder, or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental Board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. ( )

**g.** Unfair Advantage of Position and Work Outside Regular Employment. When a licensee or an individual certificate holder is employed in a full-time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. ( )

**05. Solicitation of Work.** ( )

**a.** Commissions. A licensee or certificate holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration to secure work, except to employees or established business enterprises retained by a licensee or certificate holder for the purpose of securing business or employment. ( )

**b.** Representation of Qualifications. A licensee or certificate holder may not falsify or permit misrepresentation of the licensee or the licensee associates' academic or professional qualifications and may not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment may not misrepresent pertinent facts concerning employers, employees, associates, joint venturers or the licensee or the licensee's past accomplishments with the intent and purpose of enhancing qualifications for the work. The licensee or certificate holder may not indulge in publicity that is misleading. ( )

**c.** Assignment on Which Others Are Employed. A licensee or certificate holder may not knowingly seek or accept employment for professional services for an assignment that another licensee or certificate holder is employed or contracted to perform without the currently employed or contracted entity being informed in writing. ( )

**d.** Contingency Fee Contracts. A licensee or certificate holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise the licensee's professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. ( )

**e.** Selection on the Basis of Qualifications. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. ( )

**06. Form**. The form to be used in filing corner perpetuations shall be available on the Division's website. ( )

**a.** Completion of Form. The professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. ( )

**b.** Contents on the Form. ( )

i. Record of Original Corner and Subsequent History. Information provided in this section includes the name of the original surveyor and the date or dates on which the original survey was performed, and a description of the original monument set. The information also includes the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories that are not shown on previously recorded corner records. Information provided in this section also includes the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question. ( )

ii. Description of Corner Evidence Found. Information provided in this section includes a description of any evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form. ( )

iii. Description and Sketch of Monument and Accessories Found or Established to Perpetuate the Location of this Corner. Information provided in this section includes a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. ( )

iv. Surveyor's Certificate. Include a print of the surveyor's name, the license number issued by the Board, and the name of the employer for whom the surveyor is working. ( )

v. Seal, Signature, Date. Include professional land surveyor's seal, which is signed and dated by the surveyor. ( )

vi. Marks on Monument Found or Set. Include a sketch or legible image of the marks found or placed on the monument, if applicable. ( )

vii. Diagram. Include clear marks on the section diagram indicating the location of the monument found or being established or reestablished in the survey. ( )

viii. Location. State the county, section, township, range and the monument location being established or reestablished or found in the survey. ( )

**07. State Plane Coordinates**. The State Plane Coordinate System is defined by NOAA and NGS and is available on the Division's website. ( )

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

**300. DISCIPLINE/IMPROPER CONDUCT.**

**01. Fraudulent or Dishonest Enterprises**. A licensee or certificate holder may not knowingly

associate with or permit the use of the licensee's name or the firm name in a business venture by any person or firm that it is known to be, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. ( )

**02. Confidentiality**. Licensees or certificate holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. ( )

**03. Actions by Other Jurisdictions**. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. ( )

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

~~**SUBCHAPTER A -- RULES OF PROCEDURE**~~
~~**(Rules 011 through 099)**~~

**~~011~~400. FEES.**

**01. Applications and Renewals**. All fees are set by the Board in the following categories and ~~may in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable~~ are accessible on the Division's website. ~~(3-28-23)~~( )

**a.** Licensure as a professional engineer or professional land surveyor by examination. (3-28-23)

**b.** Reinstatement of a retired or expired license. (3-28-23)

**c.** Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. (3-28-23)

**d.** Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities. (3-28-23)

**e.** Licensure for professional engineers or professional land surveyors by comity. (3-28-23)

~~**012. SEALS.**~~

~~**01. Official Seal of Board**. The official seal of this Board consists of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho." (3-28-23)~~

~~**02. Standard Seals for Engineers and Land Surveyors**. The Board adopts standard seals for use by licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use. (3-28-23)~~

~~**03. Seal for Professional Engineer/Land Surveyor**. Engineers obtaining licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. (3-28-23)~~

~~**013 -- 015. (RESERVED)**~~

~~**016. APPLICATION FOR LICENSURE OR CERTIFICATION.**~~

~~**01. Completion of Application**. Applications must be made in English. An application that is not fully~~

~~completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state.~~ ~~(3-28-23)~~

~~**02. Submittal of Applications and Examination Cutoff Date**. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different registration dates apply depending on the examination format.~~ ~~(3-28-23)~~

~~**a.** For national examinations administered in a computer based or paper format once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES).~~ ~~(3-28-23)~~

~~**b.** For national examinations administered continuously in a computer-based format, there is no deadline for registering with NCEES. The registration requirements, including the testing windows, are established by NCEES.~~ ~~(3-28-23)~~

~~**c.** In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure will be considered as valid.~~ ~~(3-28-23)~~

~~**d.** Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.03 of this chapter.~~ ~~(3-28-23)~~

~~**03. Residency Requirement**. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for initial licensure.~~ ~~(3-28-23)~~

~~**04. Minimum Boundary Survey Experience**. The Board requires a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure.~~ ~~(3-28-23)~~

## ~~017. EXAMINATIONS AND EDUCATION.~~

~~**01. Use of NCEES Examinations**. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.10 of this chapter.~~ ~~(3-28-23)~~

~~**02. Eligibility for Licensure, Educational Requirements**. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, is considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being licensed. Prescriptive education requirements are as follows:~~ ~~(3-28-23)~~

~~**a.** In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. Non EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee.~~ ~~(3-28-23)~~

~~**b.** An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider~~

them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for licensure as a professional engineer: (3-28-23)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-28-23)

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-28-23)

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-28-23)

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. (3-28-23)

**c.** In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: (3-28-23)

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics.

~~Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (3-28-23)~~

~~ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-28-23)~~

~~iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-28-23)~~

~~**d.** The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation must be done through an organization approved by the Board and be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.03.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee is forfeited. (3-28-23)~~

~~**03. Two Examinations for Engineering Licensure**. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination will be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by the Board. (3-28-23)~~

~~**04. Fundamentals of Engineering**. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (3-28-23)~~

~~**05. Principles and Practice of Engineering -- Disciplines**. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. (3-28-23)~~

~~**06. Three Examinations for Land Surveying Licensure**. The complete examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination will be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by the Board. The examination covers the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and~~

~~Practice of Surveying examination may consist of separate modules, each of which must be passed. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho.~~ ~~(3-28-23)~~

~~**07. Oral or Unassembled Examinations**. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants.~~ ~~(3-28-23)~~

~~**08. Grading**. Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must attain a passing score on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75).~~ ~~(3-28-23)~~

~~**09. Exemption -- Examination on the Fundamentals of Engineering**. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor's degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code.~~ ~~(3-28-23)~~

~~**10. Review of Examination by Examinee**. Due to security concerns about the examinations, examinees are not allowed to review their examinations. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board.~~ ~~(3-28-23)~~

~~**018. REEXAMINATIONS.**~~

~~The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations.~~ ~~(3-28-23)~~

~~**019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES, BOARDS, AND COUNTRIES.**~~

~~**01. Interstate Licensure Evaluation**. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, will be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying will be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows:~~ ~~(3-28-23)~~

~~**a.** Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, or graduates of engineering programs with coursework evaluated by the Board as being substantially equivalent to EAC/ABET degrees, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer.~~ ~~(3-28-23)~~

~~**b.** The Board may require an independent evaluation of the engineering education of an applicant who has a non EAC/ABET accredited four (4) year bachelor degree. Such evaluation must be done through an organization approved by the Board and is done at the expense of the applicant to ensure that they have completed the~~

coursework requirements of Subsection 019.01.c. Such evaluation is not required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee will be forfeited. (3-28-23)

**c.** An applicant who was originally licensed in another jurisdiction after June 30, 1996, and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: (3-28-23)

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-28-23)

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-28-23)

iii. Forty eight (48) college credit hours of engineering science and engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-28-23)

**d.** In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: (3-28-23)

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of

~~twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; (3-28-23)~~

~~ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; (3-28-23)~~

~~iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems.Graduate-level surveying courses can be included to fulfill curricular requirements in this area. (3-28-23)~~

**~~02. International Engineering Licensure Evaluation -- Countries or Jurisdictions with Board Approved Licensure Process~~**. ~~The Board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing Board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign Board to release information to the Idaho Board in English. (3-28-23)~~

**~~03. International Engineering Licensure Evaluation -- Countries or Jurisdictions Without a Board Approved Licensure Process~~**. ~~Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, will be considered by the Board on its merits, and the application evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation is required for licensure. The Board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The Board may postpone acting on or deny an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, are eligible for initial licensure in Idaho when qualified by the Board. Prescriptive education requirements are as follows: (3-28-23)~~

~~**a.** Graduates of engineering university programs accredited by the Canadian Engineering Accrediting Board, or official organizations recognized by the U.K. Engineering Council, or graduates of engineering university programs accredited by EAC/ABET or evaluated by the Board as being substantially equivalent to EAC/ABET programs will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. (3-28-23)~~

~~**b.** The Board may require an independent credentials evaluation of the engineering education of an applicant educated outside the United States who has a non-EAC/ABET accredited engineering degree. Such~~

evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. (3-28-23)

**c.** The Board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. (3-28-23)

**04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise**. The Board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the Board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. (3-28-23)

**05. Denials or Special Examinations**. An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (3-28-23)

**06. Business Entity Requirements**. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries are considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (3-28-23)

**020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.**

**01. Reinstatement – Disciplinary**. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The Board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. (3-28-23)

**02. Reinstatement – Nondisciplinary**. Licensees who chose to convert their license to retired status not as part of a disciplinary action may request reinstatement in writing. Reinstatement may require a hearing by the Board. (3-28-23)

**03. Continuing Professional Development**. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules as a condition of reinstatement. (3-28-23)

**04. Eligibility**. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. (3-28-23)

**05. Discontinued Certificate of Authorization**. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. (3-28-23)

**06. Fee for Reinstatement of Discontinued Certificate of Authorization**. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. (3-28-23)

**021 – 022. (RESERVED)**

**023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.**

Written examinations related to applicable laws and rules for engineering licensure based upon criteria established by the Board must be offered to Idaho college or university faculty applicants whose credentials have been approved by the Board and who possess an earned doctorate degree. The credentials the Board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. (3-28-23)

**024. – 099. (RESERVED)**

## SUBCHAPTER B – RULES OF PROFESSIONAL RESPONSIBILITY (Rules 100 through 199)

### 100. RESPONSIBILITY TO THE PUBLIC.

**01. Primary Obligation**. All Licensees and Certificate Holders must at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (3-28-23)

**02. Standard of Care**. Each Licensee and Certificate Holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-28-23)

**03. Professional Judgment**. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder must inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (3-28-23)

**04. Obligation to Communicate Discovery of Discrepancy**. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer must notify the License or Certificate Holder in writing, who has another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder is exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. (3-28-23)

**05. Obligation to Comply with Rules of Continuing Professional Development**. All Licensees must comply with the continuing professional development requirements contained in these rules. (3-28-23)

**06. Obligation to Affected Landowners**. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 100.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that

represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. (3-28-23)

**101. COMPETENCY FOR ASSIGNMENTS.**

**01. Assignments in Field of Competence**. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. (3-28-23)

**02. Aiding and Abetting an Unlicensed Person**. A Licensee or Certificate Holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. (3-28-23)

**03. Use of Seal on Documents**. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. (3-28-23)

**102. (RESERVED)**

**103. CONFLICT OF INTEREST.**

**01. Conflict of Interest to Be Avoided**. Each Licensee or Certificate Holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. (3-28-23)

**02. Compensations From Multiple Parties on the Same Project**. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (3-28-23)

**03. Solicitation From Material or Equipment Suppliers**. A Licensee or Certificate Holder may not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 103.02. (3-28-23)

**04. Gratuities**. A Licensee or Certificate Holder may not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a Licensee or Certificate Holder make any such improper offer. (3-28-23)

**05. Solicitation From Agencies**. A Licensee, a Certificate Holder or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a Licensee or a Certificate Holder. (3-28-23)

**06. Professional Services Decisions of Agencies**. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an

advisor or consultant to a governmental Board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. (3-28-23)

**07. Unfair Advantage of Position and Work Outside Regular Employment**. When a Licensee or an individual Certificate Holder is employed in a full time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (3-28-23)

## 104. SOLICITATION OF WORK.

**01. Commissions**. A Licensee or Certificate Holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. (3-28-23)

**02. Representation of Qualifications**. A Licensee or Certificate Holder may not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and may not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment may not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder may not indulge in publicity that is misleading. (3-28-23)

**03. Assignment on Which Others Are Employed**. A Licensee or Certificate Holder may not knowingly seek or accept employment for professional services for an assignment that another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (3-28-23)

**04. Contingency Fee Contracts**. A Licensee or Certificate Holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise his professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. (3-28-23)

**05. Selection on the Basis of Qualifications**. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. (3-28-23)

## 105. IMPROPER CONDUCT.

**01. Fraudulent or Dishonest Enterprises**. A Licensee or Certificate Holder may not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm that it is known to be, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. (3-28-23)

**02. Confidentiality**. Licensees or Certificate Holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. (3-28-23)

**03. Actions by Other Jurisdictions**. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. (3-28-23)

**106. – 199. (RESERVED)**

## SUBCHAPTER C – RULES OF CONTINUING PROFESSIONAL DEVELOPMENT (Rules 200 through 299)

**200. REQUIREMENTS.**
The purpose of the continuing professional development requirement is to demonstrate a continuing level of competency of licensees. Every licensee shall meet fifteen (15) PDH units per year or thirty (30) PDH units per biennium of continuing professional development as a condition for licensure renewal. (3-28-23)

**201. USE OF NCEES MODEL CPC STANDARD.**
Licensees must comply with the National Council of Examiners for Engineering and Surveying (NCEES) Continuing Professional Competency (CPC) renewal standard as identified in the latest version of the NCEES Model Rule 240.30, and further described in the NCEES Continuing Professional Competency Guidelines. This standard is found at https://ncees.org/wp-content/uploads/CPC-Guidelines-2017-final.pdf and is subject to the following exceptions: (3-28-23)

**01. Excess Continuing Education**. A licensee may carry forward up to thirty (30) hours of excess continuing education per renewal period. (3-28-23)

**02. Professional Society Membership**. Membership in a professional society will count as one (1) PDH per year, for a maximum of two (2) PDH per profession per year. (3-28-23)

**202. – 299. (RESERVED)**

## SUBCHAPTER D – RULES FOR CORNER PERPETUATION AND FILING (Rules 300 through 399)

**300. FORM.**
The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Ste. 110, Meridian, ID 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced. (3-28-23)

**301. COMPLETION OF FORM.**
Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. (3-28-23)

**302. CONTENTS ON THE FORM.**
The contents on the form must contain the following: (3-28-23)

**01. Record of Original Corner and Subsequent History**. Information provided in this section includes the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. The information also includes the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories that are not shown on previously recorded corner records. Information provided in this section also includes the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question. (3-28-23)

**02. Description of Corner Evidence Found**. Information provided in this section includes a description of any evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form. (3-28-23)

~~**03. Description and Sketch of Monument and Accessories Found or Established to Perpetuate the Location of this Corner**. Information provided in this section includes a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. (3-28-23)~~

~~**04. Surveyor's Certificate**. Include a print of the surveyor's name, the license number issued by the Board, and the name of the employer for whom the surveyor is working. (3-28-23)~~

~~**05. Seal, Signature, Date**. Include an imprint of the surveryor's professional land surveyor seal, which is signed and dated by the surveryor. (3-28-23)~~

~~**06. Marks on Monument Found or Set**. Include a sketch or legible image of the marks found or placed on the monument, if applicable. (3-28-23)~~

~~**07. Diagram**. Include clear marks on the section diagram the location of the monument found or being established or reestablished in the survey. (3-28-23)~~

~~**08. Location**. State the county, section, township, range and the monument location being established or reestablished or found in the survey. (3-28-23)~~

~~**303. – 399. (RESERVED)**~~

~~**SUBCHAPTER E – RULES FOR COORDINATE SYSTEM OF LAND DESCRIPTION (Rules 400 through 499)**~~

~~**400. STATE PLANE COORDINATES.**~~
~~The State Plane Coordinate System of 1983, described in NOAA Manual NOS NGS 5, reprinted September 1995, available at the URL https://www.ngs.noaa.gov/library/pdfs/NOAA_Manual_NOS_NGS_0005.pdf is adopted as the official system of projections for the Idaho Plane Coordinate System (IPCS). The Datum for the IPCS is the North American Datum of 1983 (2011) epoch 2010, defined in NOAA Professional Paper NOS 2, dated December 1989 and found at the URL: https://geodesy.noaa.gov/library/pdfs/NOAA_PP_NOS_0002.pdf; further described in Table 1 of Datums and reference frames, last revised July 1, 2020; available at the URL: https://geodesy.noaa.gov/datums/horizontal/index.shtml. (3-28-23)~~

**401. – 999. (RESERVED)**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

## DOCKET NO. 24-3701-2401 (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 67-9404, 67-9405, 67- 9406, 67-9409, and 67-9413, Idaho Code, as well as Title 55, Chapter 22, Idaho Code, and 55-2203, Idaho Code.

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

**24.37.01 – Rules of the Idaho Real Estate Commission**

**Tuesday, September 17, 2024 – 9 a.m. (MT)**
**Division of Occupational and Professional Licenses**
**Soldier Room, Chinden Campus Building 4**
**11341 W. Chinden Blvd.**
**Boise, ID 83714**

**Virtual Meeting Link**

**Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.**

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 Real Estate Commission 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.

Due to the volume of reformatting of the rule chapter, the redline version of the rules provided in the bulletin will show many sections of the current rules being struck and added back in as new text as they are moving to new sections for consistent formatting. A redlined document to show what changes were made can be found at insert link here.

**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. 24-3701-2401. Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2024, Idaho Administrative Bulletin, Vol. 24-6, p.80-81.

**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 September 25, 2024.

DATED this 2nd day of August, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3701-2401**
**(ZBR Chapter Rewrite)**

## 24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

**000. LEGAL AUTHORITY.**
~~The Rules of the~~This chapter is ~~Idaho Real Estate Commission contained herein have been~~ adopted pursuant to Sections 54-2007, 67-2504, 67-2614, 67-9409, and 67-9406, Idaho Code. ~~Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code.~~ ~~(3-28-23)~~( )

**001. SCOPE.**
These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. (3-28-23)

**002. – 0~~05~~99. (RESERVED)**

**100. LICENSURE.**

**01. Renewal of Expired License**. If an active license expires, the licensee must complete and submit

with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code. ( )

**02. Mandatory Errors and Omissions Insurance**. Every licensee will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. ( )

**03. Insurance Plan**. The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. ( )

**a.** Insurance Carrier. For the purposes of this section: ( )

i. Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; ( )

ii. Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and ( )

iii. Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. ( )

**b.** Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:

| | Limit Liability Coverage for Each Occurrence Not Less Than | Annual Aggregate Limit Not Less Than |
|---|---|---|
| Individual License Coverage | $100,000* | $300,000* |
| Firm Coverage | $500,000* | $1,000,000* |
| | *Not including costs of investigation and defense | |

( )

i. A deductible amount of not greater than three thousand five hundred dollars ($3,500), which includes costs of investigation and defense; ( )

ii. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; ( )

iii. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and ( )

iv. Prior acts coverage shall be offered to licensees with continuous past coverage. ( )

**04. Failure To Maintain Insurance**. Failure of a licensee to obtain and maintain insurance coverage

required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. ( )

**05. Falsification Of Certificates**. Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. ( )

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

**150. EDUCATION.**

**01. Education Records Access**. As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education records of any licensee currently licensed with the broker. ( )

**02. Approved Topics For Continuing Education**. ( )

**a.** Topics Approved by the Commission. Topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate brokerage practice and actual real estate knowledge. ( )

**b.** Topics Not Eligible for Continuing Education Credits. Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval. ( )

**03. Minimum Teaching Standards**. All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization. ( )

**a.** Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor will be taught only by an instructor that is currently approved or certified for that course. ( )

**b.** Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. ( )

**c.** Attendance Requirement. The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved. ( )

**d.** Maintaining Exam Security. The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key. ( )

**e.** Use of Exam Questions Prohibited. The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ( )

**151. -- 199. (RESERVED)**

**~~006~~200. ~~ELECTRONIC SIGNATURES~~PRACTICE STANDARDS.**

**01. Electronic Signatures**. Electronic signatures are permissible in accordance with the Uniform

Electronic Transactions Act, Title 28, Chapter 50. ~~(3-28-23)~~( )

**02. Disputes Concerning Commissions and Fees**. The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. ( )

**03. Legal Opinions**. A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. ( )

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

**300. DISCIPLINE.**
Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. ( )

**~~007~~301. -- ~~099~~399.(RESERVED)**

**APPLICATION, LICENSURE, AND TERMINATION OF LICENSES**
**Rules 100 through 199**

**~~100~~400. FEES.**
License and other fees:

| | Initial License | Renewal | Late Fee | Other |
|---|---|---|---|---|
| Broker | $160 | $160 | $25 | |
| Salesperson | $160 | $160 | $25 | |
| Business Entity | $50 | $50 | $25 | |
| Branch Office | $50 | $50 | $25 | |
| Cooperative License | $100 | | | |
| Education or License History | | | | $10 |
| License Certificate | | | | $15 |

(3-28-23)

~~**101. -- 104. (RESERVED)**~~

~~**105. CONDITIONS TO RENEW EXPIRED LICENSE.**~~
~~The Commission may accept a licensee's application to renew an expired license upon the following conditions:~~ ~~(3-28-23)~~

~~**01. Payment of Late Fee**. The applicant must pay the late license renewal fee.~~ ~~(3-28-23)~~

~~**02. Renewal After Expiration of Active License**. If an active license expires, the licensee must complete and submit with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code.~~ ~~(3-28-23)~~

~~**03. Investigate or Discipline a Licensee**. Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or these rules.~~ ~~(3-28-23)~~

**106. -- 116. (RESERVED)**

**117. MANDATORY ERRORS AND OMISSIONS INSURANCE.**
Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho will have in effect and maintain a policy of errors and omissions insurance as required by Section 54-2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. (3-28-23)

**118. INSURANCE PLAN.**
The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. (3-28-23)

**01. Insurance Carrier**. For the purposes of Section 118: (3-28-23)

**a.** Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; (3-28-23)

**b.** Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and (3-28-23)

**c.** Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. (3-28-23)

**02. Approved Policy**. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:

| | Limit Liability Coverage for Each Occurrence Not Less Than | Annual Aggregate Limit Not Less Than |
|---|---|---|
| Individual License Coverage | $100,000* | $300,000* |
| Firm Coverage | $500,000* | $1,000,000* |
| | *Not including costs of investigation and defense | |

(3-28-23)

**a.** A deductible amount of not greater than three thousand five hundred dollars ($3,500), which includes costs of investigation and defense; (3-28-23)

**b.** A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; (3-28-23)

**c.** An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-28-23)

**d.** Prior acts coverage shall be offered to licensees with continuous past coverage. (3-28-23)

**119. (RESERVED)**

**120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.**
Issuance or renewal of an active license requires certification of compliance that satisfies the requirements of Section 54-2013, Idaho Code. (3-28-23)

**121. FAILURE TO MAINTAIN INSURANCE.**
Failure of a licensee to obtain and maintain insurance coverage required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. (3-28-23)

**122. FALSIFICATION OF CERTIFICATES.**
Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. (3-28-23)

**123. – 299. (RESERVED)**

## BUSINESS CONDUCT
## Rules 300 through 399

**300. DISPUTES CONCERNING COMMISSIONS AND FEES.**
The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. (3-28-23)

**301. (RESERVED)**

**302. TITLE OPINIONS.**
No real estate broker or sales associate will pass judgment upon or give an opinion with respect to the marketability of the title to property in any transaction. (3-28-23)

**303. LEGAL OPINIONS.**
A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. (3-28-23)

**304. (RESERVED)**

**305. EDUCATION RECORDS ACCESS.**
As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. (3-28-23)

**306. – 399. (RESERVED)**

## CONTINUING EDUCATION
## Rules 400 through 499

**400. – 401. (RESERVED)**

**402. APPROVED TOPICS FOR CONTINUING EDUCATION.**
Continuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course will enable licensees to better serve real estate consumers. (3-28-23)

**01. Topics Approved by the Commission**. Topic areas for continuing education, as provided for in

~~Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate brokerage practice and actual real estate knowledge.~~ ~~(3-28-23)~~

~~**02. Topics Not Eligible for Continuing Education Credits**. Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval.~~ ~~(3-28-23)~~

~~**403. -- 499. (RESERVED)**~~

~~**EDUCATION TEACHING STANDARDS**~~
~~**Rules 500 through 599**~~

~~**500. MINIMUM TEACHING STANDARDS.**~~
~~All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization.~~ ~~(3-28-23)~~

~~**01. Certification Requirement**. A course required to be taught by a Commission-certified or Commission-approved instructor will be taught only by an instructor that is currently approved or certified for that course.~~ ~~(3-28-23)~~

~~**02. Outlines and Curriculum**. A course must be taught in accordance with the course outline or curriculum approved by the Commission.~~ ~~(3-28-23)~~

~~**03. Attendance Requirement**. The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved.~~ ~~(3-28-23)~~

~~**04. Maintaining Exam Security**. The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key.~~ ~~(3-28-23)~~

~~**05. Use of Exam Questions Prohibited**. The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions.~~ ~~(3-28-23)~~

**~~501~~401. -- 999. (RESERVED)**

# IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

## 24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

## DOCKET NO. 24-3950-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 24-3950-2301. Only that section of the rule effected by House Concurrent Resolution (HCR) 48 is being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 48**, IDAPA 24.39.50, "Rules of the Public Works Contractors License Board," the amendment to Section 100, Subsection 03.d. (recodified as Section 111), only, adopted as a pending rule under Docket Number **24-3950-2301**, is not consistent with legislative intent and is rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Section 111 is reprinted here as affected by HCR 48 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 48.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~* also *codified as italicized.***

***111. FINANCIAL REQUIREMENTS.***

*The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:*

*~~d.~~ ~~Financial Requirements.~~*

| TABLE 111.01 – FINANCIAL REQUIREMENTS | | |
|---|---|---|
| **LICENSE CLASS** | **NET WORTH** | **WORKING CAPITAL** |
| Unlimited | $1,000,000 ~~2,000,000~~ | $600,000 ~~1,200,000~~ |
| AAA | $600,000 ~~1,200,000~~ | $200,000 ~~400,000~~ |
| AA | $450,000 ~~900,000~~ | $150,000 ~~300,000~~ |
| A | $300,000 ~~600,000~~ | $100,000 ~~200,000~~ |
| B | $150,000 ~~300,000~~ | $50,000 ~~100,000~~ |
| CC | $75,000 ~~150,000~~ | $25,000 ~~50,000~~ |
| C | $25,000 ~~50,000~~ | $7,500 ~~15,000~~ |
| D | $10,000 ~~20,000~~ | $3,000 ~~6,000~~ |

*(3-28-23)*

# IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

## 26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

## DOCKET NO. 26-0120-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 26-0120-2301. Only those sections of the rule effected by Senate Concurrent Resolution (SCR) 126 are being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **SCR 126**, IDAPA 26.01.20, "Rules Governing the Administration of Park and Recreation Areas and Facilities," the amendments to Section 225, Subsection 07, and Sections 245, 247, 250, 254, 256, and 276, only, adopted as a pending rule under Docket Number **26-0120-2301**, are not consistent with legislative intent and are rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Sections 225, 245, 247, 250, 254, 256, and 276 are reprinted here as affected by SCR 126 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by SCR 126.
The following rule text is the codified final rule and includes the rejected
pending rule text shown here as *~~underscored and stricken~~* also *codified as italicized.***

**225. FEES AND SERVICES.**

**01. Authority**. (3-18-22)

**a.** All fees in this chapter are maximum fees unless otherwise stated. The board has the authority to set actual fees by board policy. (3-18-22)

**b.** Park and program managers have the authority to set fees for goods available for resale, equipment

rentals, and services provided by employees to enhance the users experience unique to the individual park or program. (3-18-22)

**02. Payment**. Visitors must pay all required fees. (3-18-22)

**03. Camping**. Camping fees include the right to use designated campsites and facilities for the period camp fees are paid. Utilities and facilities may be restricted by weather or other factors. (3-18-22)

**04. Group Use**. (3-18-22)

**a.** Groups of twenty-five (25) persons or more, or any group needing special considerations or deviations from these rules must obtain a permit. Permits may be issued after arrangements have been made for proper sanitation, population density limitations, safety of persons and property, and regulation of traffic. (3-18-22)

**b.** Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) or more people may be approved by the director with forty-five (45) days advance notice. (3-18-22)

**c.** Group use fees for day use facilities, general use areas, and events may be negotiated by the park or program manager and will generally not fall below the cost of providing services. MVEF is required unless specifically waived by the park or program manager. (3-18-22)

**05. Fees and Deposits**. Fees and deposits, including cleaning fees or damage/cleaning deposits, may be required for certain uses or the reservation of certain facilities unique to an individual park. Where deposits are required, they are to be paid prior to check-in (3-18-22)

**06. Fee Collection Surcharge**. A surcharge may be added to all established fees when the operator of a motor vehicle or responsible party of a camping unit fails to pay all required fees or fails to properly display proof of payment for required fees prior to entering a park area or occupying a campsite. If the surcharge is assessed, and the operator of the vehicle or responsible party is not present, all required fees in addition to the surcharge will be assessed against the registered owner of the motor vehicle or camping unit. (3-18-22)

**07. Admission Fees**. An admission fee may be charged for *internal* park facilities~~*, areas, programs, or recreational activities*~~ which provide an educational opportunity~~.~~ *or* require special accommodations~~ *or special services. Admission fees are set by the park or program manager and will generally not fall below the cost of providing services*~~. *(3-18-22)*

**08. Cooperative Fee Programs**. The department may collect and disperse fees in cooperation with fee programs of other state and federal agencies. (3-18-22)

**09. Encroachment Permit Application Fee**. The department may assess an encroachment application fee as set by the board to cover administrative costs incurred by the department in reviewing the application and the site, and in preparing the appropriate document(s). (3-18-22)

**10. Returned Checks**. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (3-18-22)

***(BREAK IN CONTINUITY OF SECTIONS)***

**245. FEE SCHEDULE: FEE COLLECTION SURCHARGE.**

| Category | Fee |
|---|---|
| Fee Collection Surcharge | $25~~35~~/day |

*(3-18-22)*

*(BREAK IN CONTINUITY OF SECTIONS)*

**247. FEE SCHEDULE: ENTRANCE.**

| Category | Fee |
|---|---|
| Daily MVEF | $7~~20~~/day/vehicle |
| Annual MVEF | $80~~120~~/year/vehicle |
| Annual MVEF Replacement | $5/vehicle |
| Commercial Motor Vehicle Entrance | $50~~100~~/day/vehicle |
| Admission~~:~~ ~~Day~~ | $20/person |
| ~~Admission, Month~~ | ~~$100/Person~~ |
| ~~Admission, Season~~ | ~~$500/Person~~ |

*(3-18-22)*

*(BREAK IN CONTINUITY OF SECTIONS)*

**250. FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.**

| Category | Fee |
|---|---|
| Basic Campsite: site may have water | $34~~72~~/day |
| Electric Campsite: site has electricity and may have water | $42~~90~~/day |
| Full Hook-up Campsite: site has electricity, water, and sewer | $46~~96~~/day |
| Companion Campsite: site has electricity and may have water | $84~~192~~/day |
| Hike-in/Bike-in Campsite | $12~~36~~/person/day |
| Extra Vehicle | $8/day |
| Overnight Use of Parking Areas | $20/night/vehicle, trailer, or vehicle with attached trailer |
| Use of Campground Showers by Non-campers | $3~~10~~/person/day |
| Camping Cabins and Yurts | $500/night |
| Each additional person above the base occupancy of camping cabin or yurt | $12/person/night |
| Pets | $15/pet/night |
| Cleaning | $50~~500~~ |

*(3-18-22)*

*(BREAK IN CONTINUITY OF SECTIONS)*

**254. FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.**
Group Facility Fees. Reservation service fee, designated group campground or facility. (3-18-22)

| Category | Fee |
|---|---|
| Reservation Service Charge (non-transferable, non-refundable) | $25~~50~~ |
| Group use of day use facility, overnight facility, or group camp (set by park or program manager) | Varies |
| Each additional person above the base occupancy of the overnight facility | $12/person/night |

*(3-18-22)*

***(BREAK IN CONTINUITY OF SECTIONS)***

**256. FEE SCHEDULE: BOATING FACILITIES.**
Boating Facilities:

| Category | Fee |
|---|---|
| Vessel Launching | MVEF or $7~~20~~/ day/vessel |
| Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel | $9~~30~~/night |
| Overnight moorage at dock, person staying on vessel | $10~~40~~/night |
| Overnight moorage at buoy, person staying on vessel | $9~~30~~/night |

*(3-18-22)*

***(BREAK IN CONTINUITY OF SECTIONS)***

**276. FEE SCHEDULE: RESERVATIONS.**

| Category | Fee |
|---|---|
| Reservation Service Charge, individual campsite or facility | Current RV sticker or $10/campsite or facility |
| Reservation Service Charge, group reservation for campsite or facility | $25~~50~~ |
| Modification~~, individual campsite or facility~~ | $10/campsite or facility |
| ~~Modification, special use campsite, or facility~~ | ~~First night's fee or daily usage fee~~ |
| Cancellation, individual campsite or facility, prior to check-in time | $10/campsite or facility |

| Category | Fee |
|---|---|
| Cancellation, individual campsite or facility, after check-in time | First night's fee |
| Cancellation, special use campsite or facility, more than 21 days in advance | ~~*First night's fee plus*~~ $50/*facility* |
| Cancellation, *individual* ~~*special use*~~ campsite or facility, 21 days or less in advance | First night's or daily usage fee |

*(3-18-22)*

# IDAPA 34 – IDAHO SECRETARY OF STATE

## 34.08.01 – RULES GOVERNING PAID SIGNATURE GATHERERS

## DOCKET NO. 34-0801-2401 (NEW CHAPTER)

## 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 the Secretary of State has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 34-1807, 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 September 18, 2024.

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

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

Pursuant to S1377, effective July 1, 2024, the Secretary of State is implementing this temporary rule relating to the badge now required to be worn by paid signature gatherers for initiatives and referendums. The rule sets forth the font, shape, color, and size requirements for the badge.

**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:

S1377, which requires paid signature gatherers for initiatives and referendums to wear badges while gathering signatures went into effect July 1, 2024.

**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 it was not feasible to conduct negotiated rulemaking due to the narrow requirement for the rule set forth in 34-1807, Idaho Code.

**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 Robert McQuade at (208) 334-2300.

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 September 25, 2024.

DATED this 2nd day of August, 2024.

Robert H. McQuade, Jr.
Assistant Chief Deputy
Idaho Secretary of State
700 W. Jefferson Street, Room E205
P.O. Box 83720
Boise, ID 83720-0080
(208) 334-2300

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 34-0801-2401**
**(New Chapter)**

## 34.08.01 – RULES GOVERNING PAID SIGNATURE GATHERERS

**000. LEGAL AUTHORITY.**
Section 34-1807, Idaho Code. (7-1-24)T

**001. SCOPE.**
These rules outline specifications for badge requirements worn by paid signature gatherers who circulate any petition for an initiative or referendum. (7-1-24)T

**002. BADGE REQUIREMENTS.**
All badges worn by paid signature gatherers as required by Section 34-1807, Idaho Code, must meet the following minimum requirements: (7-1-24)T

**01. Badge Size**. One (1) inch high by three (3) inches wide or larger; (7-1-24)T

**02. Font Family**. 'Arial' font (or similar sans-serif equivalent). No italic or script fonts. (7-1-24)T

**03. Content and Restrictions**. Required text must say 'PAID PETITION CIRCULATOR' in all capital letters with no other text or logos included. (7-1-24)T

**04. Font Size**. Minimum font size of twenty-four (24) point. Text should take up as much space on the badge as possible while still being legible. (7-1-24)T

**05. Font and Background Colors**. Black text on white background with no other images or colors. (7-1-24)T

**003. BADGE TEMPLATE.**
The following is a template for use in accordance with Section 002 of these rules:


(7-1-24)T

**004. – 999. (RESERVED)**

# IDAPA 35 – IDAHO STATE TAX COMMISSION

## 35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

## DOCKET NO. 35-0103-2401

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105, 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 September 18, 2024.

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

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

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.

**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 July 3, 2024 Idaho Administrative Bulletin, 24-7, pages 269-270.

**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 Alan Dornfest at Alan.Dornfest@tax.idaho.gov or (208) 334-7742.

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 September 25, 2024.

DATED this 4th day of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36. Boise ID 83722-0036
(208) 334-7544

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

### 617. AGRICULTURAL LAND VALUATION DEFINITIONS AND GUIDELINES.

Section 63-205C, Idaho Code

**01. Definitions**. (7-1-24)

**a.** The actual use value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-205C, Idaho Code, plus a component for the local tax rate. The Actual Use Value will be considered market value for assessment purposes. (7-1-24)

**b.** Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. Only the rent solely attributable to the agricultural land is included in economic rent. (7-1-24)

**c.** Net Income (Rent) is determined by deducting the landlord's share of all typical current expenses from economic rent per acre. (7-1-24)

**d.** Agricultural Area is an identifiable geographical area of similar agricultural land. (7-1-24)

**02. Determination of Average Crop Rental Rates**. (7-1-24)

**a.** Determine the average per acre gross income from individual crop cash rents, whole farm cash rents, or crop share typical to the Agricultural Area over the immediate past five (5) growing seasons as reported by local farmers. (7-1-24)

**b.** If data from local farmers is insufficient, data typical to the Agricultural Area from third party providers, such as the United States Department of Agriculture (USDA), University of Idaho Crop Enterprise Budgets, or similar sources, may be used. (7-1-24)

**c.** The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available when developing a supportable value conclusion. (7-1-24)

**03. Determination of Farm Credit Services Capitalization Rate**. (7-1-24)

**a.** The Tax Commission will gather the interest rate data from the Spokane office of the Farm Credit Services, average the rate over the immediate past five (5) years and distribute the rate annually to assessors by the second Monday in September. (7-1-24)

**b.** The local tax rate component is the rate most applicable to the Agricultural Area. (7-1-24)

**c.** The local tax rate will be added to the Farm Credit Services capitalization rate to develop the overall capitalization rate. (7-1-24)

**04. Calculation of Net Income from a Cash Rent Analysis**. ~~Net Income from cash rent for land secondary categories 1 and 3 is calculated in the following manner:~~ ~~(7-1-24)~~( )

**a.** Crops Grown. Determine the crops typically grown in the area. (7-1-24)

**b.** Economic Rent. Determine the average per acre gross income from individual crop rents or whole farm cash rents typical to the Agricultural Area over the immediate past five (5) years. (7-1-24)

**c.** Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. (7-1-24)

**d.** Landlord's Net Income. Subtract the landlord's share of all typical expenses from the average gross income per acre for the immediately preceding year to determine net income. (7-1-24)

**05. Calculation of Net Income from a Crop Share Analysis**. ~~Net income from crop share rent for secondary land categories 1 and 3 is calculated in the following manner:~~ ~~(7-1-24)~~( )

**a.** Crops Grown. Determine the crops typically grown in the Agricultural Area. (7-1-24)

**b.** Average Crop Production. Determine the most recent five (5) year average production for typical crops grown in the Agricultural Area. (7-1-24)

**c.** Average Commodity Prices. The Tax Commission will publish five (5) year average crop prices by surveying publicly available data from various sources, including the annual crop summary published by the USDA National Agricultural Statistics Service (NASS). Average crop prices determined in this manner by the Tax Commission should be considered guidelines when determining net income, subject to modification based on local market data. (7-1-24)

**d.** Gross Income. Multiply average crop production per acre by the average commodity price to determine gross income per acre. (7-1-24)

**e.** Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the Agricultural Area. (7-1-24)

**f.** Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. (7-1-24)

**g.** Net Income. Subtract the landlord's share of all typical expenses from the landlord's share of gross income to determine net income. (7-1-24)

**06. Calculation of Grazing and Meadow Land Net Income**. ~~Net income from grazing and meadow rent for land secondary categories 2, 4, and 5 is calculated in the following manner.~~ ~~(7-1-24)~~( )

**a.** Animal Unit Month (AUM) ~~Defined. An AUM consists of the amount feed for a~~ is the amount of feed the land produces to sustain a one thousand (1,000) pound cow-calf pair, or other animal equivalent for one month. ~~(7-1-24)~~( )

**b.** Determine the ~~gross yearly income of an~~ number of AUMs by multiplying the ~~five (5) year average of locally reported rent per AUM or third-party provider equivalent by the average~~ number of cow-calf pairs, or animal unit equivalent, grazing a land parcel by the number of months ~~of the grazing season~~ grazed. ~~(7-1-24)~~( )

**c.** ~~Divide the total acres grazed by the total number of cow-calf pairs, or other animal equivalent, to determine the number of acres making up an AUM~~Multiply the number AUMs by the five (5) year average of locally reported or third party provided rents per AUM to arrive at the total AUM income. ~~(7-1-24)~~( )

**d.** Divide the total AUM income ~~per AUM~~ by the number of acres ~~per AUM to determine a gross annual income per acre~~ grazed to calculate the gross income per acre. ~~(7-1-24)~~( )

**e.** Subtract landlord's typical expenses from the immediately preceding year to determine net income per acre. (7-1-24)

~~**07. Calculation of Value Estimate per Acre to be used for Categories 1-5**. Divide the Net Operating Income by the overall capitalization rate to calculate a value estimate per acre. (7-1-24)~~

**08**7**. Cross Reference**. See Rules 645 and Rule 131 of these rules. (7-1-24)

# IDAPA 35 – IDAHO STATE TAX COMMISSION

## 35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

## DOCKET NO. 35-0103-2402

## NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 30, 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 63-105, 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 September 18, 2024.

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

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

Rule section 810 now conflicts with the current statute due to the passage of House Bill 521 during the 2024 legislative session. This rule guides local county governments on procedures necessary to distribute property tax relief payment appropriated by the Idaho Legislature. Those procedures changed with the passage of House Bill 521, including the elimination of one of the three original property tax relief programs.

**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:

This rule is necessary for "compliance with deadlines in amendments to governing law or federal programs".

**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 changes were made to conform to new statute.

**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 Alan Dornfest at Alan.Dornfest@tax.idaho.gov or (208) 334-7742.

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 September 25, 2024.

DATED this 4th day of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36. Boise ID 83722-0036
(208) 334-7544

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 35-0103-2402**
**(Only Those Sections With Amendments Are Shown.)**

## 35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

**810. PROPERTY TAX RELIEF.**
Sections 33-911, 57-810, 63-724, 63-902, 63-315, Idaho Code.

**01. Procedures Regarding School District Facilities Fund**. The Tax Commission will notify each county clerk no later than the first Monday in September each year of the amounts being distributed annually, pursuant to Section 33-911, Idaho Code, to each school district. Such ~~A~~amounts received by each school district must be reported on the L2 form and subtracted from property tax otherwise to be certified for the following funds:
~~(7-1-24)~~(7-30-24)T

**a.** Bonds. (7-1-24)

**b.** Temporary Supplemental Funds. (7-1-24)

**c.** School District plant facilities and safe school plant facilities funds. (7-30-24)T

**02. Additional School District Facilities Funds**. If the amount received by the school district from the school district facilities fund exhausts the payments for bonds, ~~and~~ temporary supplemental funds, and plant facilities funds, the remaining sums of money are ~~saved in a reserve account and~~ not subtracted from other school district levies as provided in Section 33-911(2)(d), Idaho Code. ~~(7-1-24)~~(7-30-24)T

**03. Procedures Regarding Homeowner Property Tax Relief**. (7-1-24)

**a.** The homeowner property tax relief roll certified in August will be the preliminary roll and will include the market value, amount of homestead exemption granted, and net taxable value for the portion of each homestead, as defined in Section 63-701, Idaho Code, granted the homestead exemption. (7-1-24)

i. No property granted the homestead exemption after the second Monday in July each year is to be included in this roll. (7-1-24)

ii. No improvement granted the homestead exemption on property subject to occupancy tax, as provided in Section 63-317, Idaho Code, is to be included in this roll. Land associated with such improvement may be included if it is part of the homestead and if it has a homestead exemption granted by the second Monday in July. (7-1-24)

iii. The amount of each homestead property's net taxable value attributable to increment and base, as defined in Section 50-2903, Idaho Code, will be shown on this roll. (7-1-24)

iv. The amount of taxable value to which tax levies will apply will be shown on this roll. In the case of taxing districts that do not levy property tax against all otherwise taxable property, the net taxable value of the homestead applicable to each taxing district will be shown. (7-1-24)

~~**b.** The completed homeowner property tax relief roll certified by the fourth Monday in October will include the following information in addition to the information provided in Subsection 03 of these rules.~~ ~~(7-1-24)~~

~~i. The current year's tax levy applicable to the homestead and eligible for homeowner property tax relief pursuant to Section 63-724, Idaho Code.~~ ~~(7-1-24)~~

~~ii. The amount of property taxes levied on the homestead based on levies eligible for homeowner property tax relief.~~ ~~(7-1-24)~~

~~iii. The total homeowner property tax relief for all eligible properties in the county.~~ ~~(7-1-24)~~

~~iv. The total amount of homeowner property tax relief based on increment value.~~ ~~(7-1-24)~~

~~e~~b. Actual tax relief provided to each homestead and shown on property tax notices will be based on current year's eligible levies applied to properties on the homeowner property tax relief roll, provided however, the amounts so determined will be reduced proportionally so that the total provided to all eligible homeowners will not exceed the ~~percentage and~~ amounts certified to the county by the Tax Commission as provided in Section 63-724, Idaho Code. ~~(7-1-24)~~(7-30-24)T

~~d~~c. The provision in Section 63-724, Idaho Code, that requires homeowner property tax relief monies to be distributed in the same manner as property tax includes allocation to urban renewal agencies and all taxing districts as otherwise required. (7-1-24)

~~04. Procedures for Additional Property Tax Relief~~. ~~The procedures in this subsection pertain to the distributions to each county pursuant to Section 57-810(2), Idaho Code, other than the amounts distributed to the school district facilities fund.~~ ~~(7-1-24)~~

~~a. The amount of property tax levied for the current year and approved by the Tax Commission will be the total amount based on approved property tax budgets for all taxing districts and amounts otherwise allocated to urban renewal agencies in each county. When this amount is determined for taxing districts located in more than one (1) county, each county's share will be based on the prorated amount of the district's property tax being levied in that county.~~ ~~(7-1-24)~~

~~b. In addition to the market values submitted to the Tax Commission pursuant to Section 63-510, Idaho Code, each county auditor will include the net taxable value and increment value applicable to each urban renewal revenue allocation area within each taxing district.~~ ~~(7-1-24)~~

~~e~~d. Tax relief amounts provided pursuant to Section 57-810(2), Idaho Code, will be subtracted prior to determining amounts otherwise certified to the Tax Commission on the property tax reduction roll pursuant to Section 63-707, Idaho Code. (7-1-24)

0~~5~~4. **Tax Cancellations and Levy Corrections**. Tax cancellations and levy corrections pursuant to Section 63-810, Idaho Code, occurring after certification of tax relief amounts to be paid by the Tax Commission to each county will not alter amounts to be paid by the Tax Commission. Counties receiving tax relief payments that exceed the amount that would have been paid had the tax cancellations or levy corrections been known at the time of the certification of tax relief amounts will remit the excessive amount to the state general fund using the procedure required for homeowner property tax relief overpayments in Section 63-724, Idaho Code. (7-1-24)

# IDAPA 35 – IDAHO STATE TAX COMMISSION

## 35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

## DOCKET NO. 35-0105-2401 (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 63-105, Idaho Code.

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

**Tuesday, October 1, 2024 at 1:00 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=md295b2a61bc9f17822c3d7340230286f**

**Join by meeting number:**
**Meeting number (access code) 2630 741 4170**
**Meeting password: 4UtWWTbCD87**

**Join by phone:**
**+1-415-655-0001 US Toll**

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

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

The State Tax Commission performed a critical and comprehensive review of the statutes and existing rules chapter. This chapter rewrite was done under the premise of zero-based rulemaking, as per Executive Order 2020-01: Zero Based Rule Regulation.

**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: 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 April 3, 2024 Idaho Administrative Bulletin, 24-4, page 46.

**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 Elena Gonzalez, (208) 334-7855.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 2, 2024.

DATED this 4th of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36. Boise ID 83722-0036
(208) 334-7544

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-2401**
**(ZBR Chapter Rewrite)**

## 35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

**000. LEGAL AUTHORITY ~~(RULE 000)~~.**
~~In accordance with~~ Sections 63-105(2), 63-2427, 40-312 and 41-4909, Idaho Code~~, the State Tax Commission (Tax Commission) has promulgated rules implementing the Idaho Fuels Tax Act, provisions of the Motor Vehicle Registration Act, and the Transfer Fee provisions of the Idaho Clean Water Trust Fund Act.~~ ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE ~~(RULE 001)~~.**

**~~01.~~ ~~Title~~.** ~~These rules are titled IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules."~~
~~(3-31-22)~~

**~~02.~~ ~~Scope~~.** ~~These~~ rules are construed to reach the full jurisdictional extent of the state of Idaho's authority ~~for~~ to impose: ~~(3-31-22)~~( )

**a.** Motor Fuels Tax. ~~The imposition of a~~ A motor fuel tax on each gallon of motor fuel received and on the use of or other consumption of motor fuel in this state. This also includes the administration of the International Fuel Tax Agreement (IFTA). ~~(3-31-22)~~( )

**b.** Transfer Fee. ~~The imposition of a~~ A transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Title 41, Chapter 49, ~~Title 41,~~ Idaho Code.
~~(3-31-22)~~( )

**c.** Registration Records. ~~The imposition of records~~ Record requirements for International Registration Plan (IRP) and Idaho Full Fee registration audits authorized by Title 49, Chapter 4, ~~Title 49,~~ Idaho Code.
~~(3-31-22)~~( )

**~~002. ADMINISTRATIVE APPEALS (RULE 002).~~**
~~Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code~~
~~This chapter allows administrative relief as provided under Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code, and pursuant to rules adopted by the Tax Commission found in the Tax~~

~~Commission's administration and enforcement rules relating to income taxation, IDAPA 35.02.01.~~ ~~(3-31-22)~~

**00~~3~~2. INCORPORATION BY REFERENCE ~~(RULE 003)~~.**
Sections 63-2434, 63-2442A, 41-4909, 49-439, Idaho Code

~~**01. Income Tax Administration and Enforcement Rules**. These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules."~~ ~~(3-31-22)~~

**0~~2~~1. IFTA**. These rules incorporate the applicable IFTA governing documents: the IFTA Articles of Agreement ~~(revised January 1, 2017)~~, the IFTA Procedures Manual ~~(revised January 1, 2017)~~, and the IFTA Audit Manual ~~(revised January 1, 2017). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws~~. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees~~. Motor~~, including motor fuels users licensed or ~~required~~ obligated to be licensed to operate under an Idaho IFTA license ~~must comply with all applicable rules contained in these rules~~. These documents can be found on the IFTA website at http://www.iftach.org. ~~(3-31-22)~~( )

**0~~3~~2. IRP**. These rules incorporate the applicable IRP governing documents: ~~The IRP Plan (revised July 1, 2016)~~ the Plan and IRP Audit Procedures Manual ~~(revised January 1, 2016). IRP is an international registration reciprocity agreement~~. The documents are included to aid the Tax Commission in complying with IRP registration application audits authorized in Title 49, Chapter 4, ~~Title 49,~~ Idaho Code. These documents can be found on the IRP website at http://www.irponline.org. ~~(3-31-22)~~( )

**00~~4~~3. -- 009. (RESERVED)**

**010. DEFINITIONS ~~(RULE 010)~~.**
Section 63-2401, Idaho Code
~~The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions apply.~~ ~~(3-31-22)~~

**01. Commercial Motor ~~B~~boat**. A commercial motor-boat~~, as defined in Section 63-2401, Idaho Code, i~~ includes a motor-boat used in a business that rents boats to others who use the boats for pleasure. ~~(3-31-22)~~( )

**02. ~~Indian~~Tribal-Owned Retail Outlet**. ~~An Indian~~ A tribal-owned retail outlet is: ~~(3-31-22)~~( )

**a.** Located within the boundaries of a federally recognized American Indian reservation; and ~~(3-31-22)~~( )

**b.** Owned and operated by an enrolled member of, or an enterprise owned by: ~~(3-31-22)~~( )

i. The Coeur d'Alene, Kootenai, Nez Perce, Shoshone/Bannock, or Shoshone/Paiute tribe.~~; or~~ ~~(3-31-22)~~

~~ii. An enterprise owned by one (1) of the tribes listed above; or~~ ~~(3-31-22)~~

~~iii. An enrolled member of one (1) of the listed tribes on whose reservation the retail outlet is located.~~ ~~(3-31-22)~~

~~**03. Pay, Paid, Payable or Payment**. When used in reference to any amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. Lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in lawful money except any check not honored by the bank upon which it is drawn will not constitute payment. Additionally, the Tax Commission has the authority to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars ($100,000) or more, according to rules promulgated by the Idaho State Board of Examiners.~~ ~~(3-31-22)~~

**011. -- 109. (RESERVED)**

**110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS ~~(RULE 110)~~.**
Section 63-2424, Idaho Code

~~**01. Gaseous Special Fuel.** A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (3-31-22)~~

0~~2~~1. **Selling Gaseous Special Fuel.** A gaseous special fuel may be sold at volumes or weights other than those listed in this section. ~~Distributors and consumers paying tax or claiming refunds must use the volumes and weights required by the Tax Commission when reporting~~ It is mandatory for distributors and consumers, paying tax or claiming refunds, to use Tax Commission prescribed volumes and weights when reporting. ~~(3-31-22)~~( )

0~~3~~2. **Computing Gaseous Special Fuel Tax Equivalents**. Computation is made by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel.

| Motor Fuel | BTUs per Gallon or Gallon Equivalent | Equivalent Volume or Weight/Mass | Percentage of Gasoline Gallon Energy Equivalent |
|---|---|---|---|
| Gasoline | 127,000 | 1 gallon | 100% |
| Propane | 92,000 | 4.25 lbs. or 1 gallon | 72.44% |
| Compressed Natural ~~g~~Gas (CNG) | 127,000 per GGE | 5.66 lbs. | 100% |
| Liquefied Natural Gas (LNG) | 138,400 per DGE | 6.06 lbs. | 108.98% |
| Hydrogen | 127,000 per GGE | 1 kg. | 100% |

~~(3-31-22)~~( )

**111. -- 129. (RESERVED)**

**130. DISTRIBUTOR'S FUEL TAX REPORTS ~~(RULE 130)~~.**
Sections 63-2406, 63-2407, 63-2408, 41-4909, Idaho Code

~~**01. Monthly Reports**. Every licensed distributor will file with the Tax Commission a monthly tax report, in gross gallons, with supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. The distributor must keep detailed inventory records. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor will include a listing of each person from inside and outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Tax Commission may require. (3-31-22)~~

~~**02. Exemption from Licensing and Monthly Reporting**. See Rule 135 for exemptions from obtaining a motor fuels distributor license and filing monthly reports. (3-31-22)~~

~~**03. Machine Tabulated Data**. Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the Tax Commission with a copy of the format and must be granted written authorization to use that format. (3-31-22)~~

**041. Timely Reporting**. Any motor fuel and other petroleum product shipments that are: (3-31-22)

**a.** Reported on a timely supplemental report ~~is~~ are subject to interest but ~~are~~ not subject to penalty. ~~(3-31-22)~~( )

**b.** Not reported on a timely monthly or supplemental report ~~is~~ are subject to interest and may be subject to penalty. ~~(3-31-22)~~( )

**052. Motor Fuels Receipts**. All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, ~~and~~ undyed diesel fuel, or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to ~~Rule~~ Sections 132 and 137 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. ~~(3-31-22)~~( )

**063. Motor Fuels and Other Petroleum Products Presumed to be Distributed**. Unless the contrary is established, it is presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee is allowed for accidental losses of motor fuels or other petroleum products. (3-31-22)

**074. Exported Fuel**. Motor fuels or other petroleum products claimed as exported from Idaho ~~must be supported by~~ are obligated to have supporting records ~~. Records must~~ that include the following: ~~(3-31-22)~~( )

**a.** Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (3-31-22)

**b.** Common carrier shipping documents, bills of lading, manifests, and cost billings; or (3-31-22)

**c.** Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (3-31-22)

**d.** Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (3-31-22)

**e.** In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records ~~must~~ will be retained to prove the transfer of product out of Idaho. ~~(3-31-22)~~( )

**131. ~~REQUIREMENT TO FILE~~FILING MOTOR FUELS DISTRIBUTOR REPORTS ELECTRONICALLY ~~(RULE 131)~~.**
Section 63-2406, Idaho Code

**01. Electronic Filing ~~Requirement~~**. A motor fuels distributor who reports twenty-five (25) or more total receipts ~~or~~ and disbursements of motor fuels on its monthly distributor report ~~is required to~~ will file the distributor report electronically. ~~(3-31-22)~~( )

**02. Not Reporting Electronically ~~as Required~~**. A motor fuels distributor who is ~~required~~ mandated to file its distributor report electronically, but does not, ~~file the report electronically~~ is treated as if ~~the distributor~~ they did not file the monthly report. ~~(3-31-22)~~( )

**03. Waiver ~~from Requirement to File Report Electronically~~ of Mandatory Electronic Reporting**. A motor fuels distributor can request a waiver ~~from the requirement to file motor fuel distributor reports~~

~~electronically. The distributor making the request for waiver must show~~ of the mandatory electronic reporting by showing that the cost to comply with this rule is unreasonable. The Tax Commission will review each request for waiver and issue a determination. ~~(3-31-22)~~( )

**132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS ~~(RULE 132)~~.**
Section 63-2424, Idaho Code

~~**01. Monthly Reports**. Every licensed gaseous special fuels distributor (distributor) will file with the Tax Commission a monthly tax report, using equivalents from Rule 110 of these rules, with supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report includes such information as the Tax Commission may require. (3-31-22)~~

~~**02. Report Due and Payment Required**. The report is due on or before the last day of the month following the month to which the report relates together with the payment of any tax, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars ($100,000) or more. (3-31-22)~~

~~**03. Not Paying Tax**. Any distributor required to pay the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount of tax not paid plus any applicable penalty or interest. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (3-31-22)~~

0~~4~~1. **Receipt of Gaseous Fuels**. The motor fuels tax is not imposed on gaseous special fuels when the fuels are received, as defined in Section 63-2403, Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a licensed, or required to be licensed, motor vehicle. (3-31-22)

0~~5~~2. **Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles**. Gaseous special fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: (3-31-22)

**a.** Government. Gaseous special fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all ~~of~~ its political subdivisions, are exempt from the motor fuels tax on gaseous special fuels. ~~In this case, the distributor must~~ The distributor will record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. ~~(3-31-22)~~( )

**b.** Manned and Unmanned Stations. A manned station ~~must~~ will have a representative at the point of sale to visually inspect the vehicle in order to make exempt sales of gaseous special fuels. Exempt sales of gaseous special fuels from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it ~~must~~ will request approval from the Tax Commission before making exempt sales of gaseous special fuels. ~~(3-31-22)~~( )

**133. -- 13~~4~~6. (RESERVED)**

~~**135. QUALIFIED CONSUMERS (RULE 135).**~~
~~Section 63-2427A, Idaho Code~~

~~**01. Point of Taxation and Receipt Defined**. The state of Idaho imposes an excise tax on all motor fuel, except dyed diesel, and the transfer fee on all petroleum and petroleum products received in Idaho. See Rule 510 of these rules for the definition of petroleum and petroleum products. Motor fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the motor fuel when the fuel arrives in Idaho. Motor fuel produced in Idaho is received when it is placed into any tank or other container from which sales or deliveries not involving transportation are made. Motor fuels are also received by a qualified consumer who produces motor fuels when the motor fuels are placed into storage tanks. For example: fifty-five (55) gallon barrels, above ground tanks, stilt tanks, underground tanks, tank wagons, old delivery trucks, old tanker trucks, slip tanks in pickups,~~

~~and any other storage tank used to store the motor fuel. The excise tax and transfer fee due on the motor fuel received in Idaho during a month are normally reported on a monthly Idaho Motor Fuels Distributor Report. (3-31-22)~~

~~**02. Alternative to Monthly Reporting for Qualified Consumers**. As an alternative to obtaining an Idaho motor fuel distributor license and filing monthly reports, a qualified consumer may file an annual report to remit the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid. (3-31-22)~~

~~**a.** A qualified consumer is not required to pay the transfer fee on the biodiesel they produce. (3-31-22)~~

~~**03. Qualifications**. To be a qualified consumer under this rule, a person must: (3-31-22)~~

~~**a.** Use the produced biodiesel or imported motor fuel only in its own aircraft, motor vehicles, or equipment; and (3-31-22)~~

~~**b.** Import into Idaho one hundred thousand (100,000) gallons or less of motor fuel in a calendar year; or (3-31-22)~~

~~**c.** Produce in Idaho five thousand (5,000) gallons or less of biodiesel in a calendar year. (3-31-22)~~

~~**04. Documentation of Export**. To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the jurisdiction into which the fuel was claimed to have been exported. (3-31-22)~~

~~**05. Limitations**. (3-31-22)~~

~~**a.** A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (3-31-22)~~

~~**b.** A licensed Idaho fuel distributor may not file this report. (3-31-22)~~

~~**136. (RESERVED)**~~

**137. ~~INSTATE PIPELINE TERMINAL, PRODUCTION TERMINAL, AND STORAGE~~TAX REPORTS ~~(RULE 137)~~.**

Section~~s~~ 63-2406, 63-2407, 63-2408, 63-2424, 63-2437, 41-4909, Idaho Code

**01. Monthly Reports**. Every licensed distributor (motor fuels and gaseous), instate pipeline terminal operator, and production terminal operator will file with the Tax Commission a monthly tax report~~, in~~ using gross gallons~~, with~~ or equivalents from Section 110 of these rules. The report will have such information, on the forms and in the manner prescribed by the Tax Commission, including supporting detailed schedules ~~on forms and in a manner prescribed by the Tax Commission. The pipeline terminal operator and production~~. All distributors and terminal operator~~s must~~ will keep detailed inventory records. ~~The pipeline terminal operator and production terminal operator will report~~ Along with the quantity of motor fuels and other petroleum products received during the month ~~including~~, the motor fuels distributors and terminal operators will include a listing of each person from inside or outside Idaho supplying motor fuels and other petroleum products to the distributor, pipeline terminal, or production terminal. ~~Such reports must~~ Tax reports will contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. ~~The report will include such information as the Tax Commission may require.~~ ~~(3-31-22)~~( )

**02. Machine Tabulated Data**. Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms, but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor or terminal operator ~~must~~ will make a written request ~~to the Tax Commission~~ with a copy of the format and ~~must be granted~~ receive written authorization to use that format from the Tax Commission. ~~(3-31-22)~~( )

**03. Report and Payment Due**. The report is due on or before the last day of the month following the month to which the report relates, together with the payment of any tax, penalty, or interest due. ( )

**04. Failure to Pay Tax**. Any distributor responsible for paying the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount not paid plus any applicable penalty, interest, or both. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. ( )

**138. -- 140. (RESERVED)**

**141. FUEL DISTRIBUTOR CREDIT AND REFUND CLAIMS ~~(RULE 141)~~.**
Sections 63-2410, 63-2423, Idaho Code

**01. Fuel Distributor Credit and Refund Claims**. Fuel credit and refund claims ~~must~~ are to be made on a distributor's original or amended fuel tax report unless ~~authorized~~ otherwise authorized by statute or this chapter. ~~A licensed distributor can claim credits or refunds by filing original or amended returns. Any distributor may use the Line Flush Allowance.~~ All claims ~~must~~ need to establish both of the following: ~~(3-31-22)~~( )

**a.** The basis for the credit or refund claim, and (3-31-22)

**b.** The amount of the credit or refund. (3-31-22)

**02. Line Flush Allowance**. Undyed, tax-paid diesel is contaminated with red dye when a distributor delivers dyed diesel then flushes the line with undyed diesel. The contaminated undyed diesel will be put into the delivery truck's dyed diesel fuel tank and sold as untaxed, dyed diesel. The distributor can claim a refund based on the actual gallons used to flush the line or standard allowance. A distributor will claim a fuel tax refund using the ~~Form 75, Idaho Fuels Use Report, and Line Flush Allowance worksheet~~ applicable forms. ~~(3-31-22)~~( )

~~**03. Methods to Determine the Line Flush Allowance**. The distributor can claim a refund based on the actual gallons used to flush the line or a standard allowance. Check the box on the worksheet to indicate the method used to calculate nontaxable gallons. Use the following procedure for method chosen:~~ ~~(3-31-22)~~

~~**a.** Standard allowance. Multiply by five (5) gallons by the number of flushes using logs prepared by the delivery truck driver including the truck number, date, and number of flushes; or~~ ~~(3-31-22)~~

~~**b.** Actual gallons. The actual gallons used to flush the lines. Delivery tickets or totalizer log readings for each flush including the truck number, date, and gallons used to flush the line.~~ ~~(3-31-22)~~

**142. -- 149. (RESERVED)**

**150. FUEL SALE DOCUMENTATION REQUIRED (RULE 150).**
Section 63-2429, Idaho Code

**01. Retail Sales Invoices for Delivered, Bulk Plant, and Station Sales**. Any distributor who sells motor fuels and other petroleum products ~~in this state must~~ in Idaho will issue an original invoice to the purchaser; ~~provided, however, that~~ except when sales are accounted for ~~on a~~ monthly ~~basis~~. ~~t~~The invoices may be issued to the purchaser at the time of billing. All sales invoices (including a credit card receipt used as a sales invoice) for motor fuels and other petroleum products sold at retail stations, bulk plants, or delivered to the customer's location ~~must~~ will contain the following: ~~(3-31-22)~~( )

**a.** A preprinted identification number, except when invoices are automatically assigned a unique identification number by a computer or similar machine when issued; (3-31-22)

**b.** Name and address of the distributor; (3-31-22)

**c.** Name of the purchaser; (3-31-22)

**d.** Date of sale or delivery; (3-31-22)

**e.** Type of fuel; (3-31-22)

**f.** Gallons invoiced - reported as ~~required~~ found in Section ~~130~~ 137 of these rules; ~~(3-31-22)~~( )

**g.** Price per gallon and total amount charged. When taxable motor fuels products are sold, at least one (1) of the following ~~must be~~ is used to establish ~~that t~~ the Idaho ~~State~~ fuels tax ~~has been~~ and transfer fee was charged: ~~(3-31-22)~~( )

i. The amount of Idaho ~~State~~ fuels tax; ~~(3-31-22)~~( )

ii. The rate of Idaho ~~State~~ fuels tax; ~~or~~ and ~~(3-31-22)~~( )

iii. The amount of Idaho transfer fee; or ( )

i~~i~~v. A statement that the Idaho ~~State~~ fuels tax and transfer fee are ~~is~~ included in the price. ~~(3-31-22)~~( )

**h.** Delivered sales invoices ~~must also~~ will contain the purchaser's address along with the origin and destination of the motor fuels and other petroleum products. ~~(3-31-22)~~( )

**i.** The sales invoice will contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued. (3-31-22)

**02. Correcting Sales Invoice Errors**. ~~When an original invoice is issued containing incorrect information, it may~~ An incorrect invoice should be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second sales invoice is issued, it will show the date and serial number of the original invoice and that the second invoice is in replacement or correction. ~~(3-31-22)~~( )

**03. Disallowing Tax-Paid Credit**. Not including all the above documentation will result in an invalid sales invoice for a tax-paid fuel claim by the distributor's customer. (3-31-22)

**04. Documentation ~~Requirements~~ Necessary for Dyed Diesel Fuel**. The state of Idaho ~~is~~ follow~~ing ts~~ the Internal Revenue Service ~~requirements for~~ standards regarding sales of dyed diesel fuel. The Internal Revenue Code ~~requires that~~ calls for a notice stating "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" ~~must~~ to be: ~~(3-31-22)~~( )

**a.** Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator; and (3-31-22)

**b.** Provided by any seller of dyed diesel fuel to the buyer if the fuel is located outside the bulk transfer/terminal system and is not sold from a posted retail pump; and (3-31-22)

**c.** Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (3-31-22)

**d.** The documentation notice found in this rule ~~must be provided at the time of removal or sale and must appear~~ is necessary on shipping papers, bills of lading, and sales invoices accompanying the sale or removal of the fuel. Any person who does not provide or post the ~~required~~ necessary notice is presumed to know that the fuel is used for a taxable ~~use~~ purpose and is subject to penalties imposed by the Internal Revenue Service. ~~(3-31-22)~~( )

**151. -- 169. (RESERVED)**

**170. INFORMATION ON DYED & UNDYED DIESEL FUEL ~~(RULE 170)~~.**
Sections 63-2423, 63-2425, Idaho Code

**01. Undyed Diesel Fuel Used for Heating Purposes**. The consumer ~~must~~ will apply directly to the Tax Commission for a refund of the special fuels tax~~es~~ included in the purchase price of undyed diesel used for heating a dwelling or building. The distributor may assist the consumer claiming a refund of the special fuels tax ~~from the Tax Commission~~ by: ~~(3-31-22)~~( )

**a.** Properly documenting information on the sales invoice; and (3-31-22)

**b.** Providing the customer with ~~a Form 75~~ the appropriate forms. ~~(3-31-22)~~( )

**02. Red-Dyed Diesel**. It is illegal to use red-dyed diesel in the main supply tank of a licensed, or required to be licensed, motor vehicle in ~~this state~~ Idaho unless the type of user is listed below. Penalties for illegal use of red-dyed diesel in a motor vehicle are found in Section 63-2460, Idaho Code. The Internal Revenue Code ~~does allow certain types of users to purchase tax-exempt~~ allows the use of red-dyed diesel ~~for use in their vehicles. Red-dyed diesel may be used~~ by: ~~(3-31-22)~~( )

**a.** ~~By s~~State and local governments (political subdivisions of the state) for their exclusive use; ~~(3-31-22)~~( )

**b.** ~~In t~~The engine of a train; ~~(3-31-22)~~( )

**c.** ~~In a~~A school bus, owned or leased and operated by a political subdivision of the state of Idaho, while the bus is engaged in the transportation of students and school employees; ~~(3-31-22)~~( )

**d.** ~~In a~~A vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; ~~(3-31-22)~~( )

**e.** ~~In a~~A highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; ~~(3-31-22)~~( )

**f.** ~~In a~~A highway vehicle owned by the United States that is not used on a highway; ~~(3-31-22)~~( )

**g.** ~~Exclusively by a~~A nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5) for their exclusive use. ~~(3-31-22)~~( )

**171. MOTOR FUELS EXEMPTION FROM SALES TAX ~~(RULE 171)~~.**
Sections 63-2431, 63-3622C, Idaho Code
Any sale of motor fuels ~~by any fuel distributor~~ that is subject to motor fuels tax is exempt from Idaho sales tax under Title 63, Chapter 36, ~~Title 63,~~ Idaho Code. If such purchases are later included in credits or refunds for motor fuels tax paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use tax~~es~~ is applicable. ~~If dyed fuel products are sold without the motor fuels tax, the sale is~~ Sales of dyed fuel are subject to ~~the~~ Idaho sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of dyed fuel ~~that do not include the motor fuels tax~~ are exempt from Idaho sales tax only if the seller has taken from the purchaser a sales tax exemption certificate in the manner ~~required by~~ outlined in IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules~~,~~;" ~~Rule 128.~~ However, if the dyed fuel product delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not ~~required~~ necessary. ~~(3-31-22)~~( )

**172. -- 184. (RESERVED)**

**185. ~~AUTHORITY TO GIVE THE~~ CONSENT TO THE JURISDICTION OF IDAHO COURTS ~~(RULE 185)~~.**
Section 63-2427A, Idaho Code

**01. Authorized Signature on Application**. All Idaho ~~Fuel Distributor License Applications must~~ fuel distributor license applications have to be signed by an individual with the authority to give ~~the~~ consent to the jurisdiction of Idaho courts on behalf of the applicant. ~~(3-31-22)~~( )

**02. Authority to Waive Sovereign Immunity**. If the applicant is a state, local or tribal governmental entity, the application ~~must~~ has to be accompanied by a separate authorization by the governing authority of the entity waiving sovereign immunity that the entity may otherwise assert against any action to enforce Idaho motor fuels tax laws in Idaho state court and setting forth the authority of the individual who signs the application to bind the applicant. ~~(3-31-22)~~( )

**03. Irrevocable Submission and Waiver of Sovereign Immunity**. The application constitutes an irrevocable submission to the jurisdiction of Idaho state courts, and the waiver of any sovereign immunity that may otherwise be asserted, as to all disputes related to the enforcement of Title 63, Chapter 24, ~~of the~~ Idaho Code. ~~(3-31-22)~~( )

**186. -- 229. (RESERVED)**

**230. MOTOR FUELS SUBJECT TO USE TAX -- RECORDS~~REPORTING (RULE 230)~~.**
Section 63-2421, Idaho Code
~~Any person using tax-exempt motor fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, will annually report to the Tax Commission the amount of motor fuels tax due.~~ ~~(3-31-22)~~

~~**01. Reporting**. A person who wishes to pay their fuel taxes due more frequently may file on forms prescribed by the Tax Commission for any time period that is not less than one (1) month, but not more than one (1) year. The report may be made together with the claimant's Idaho income tax return, if it is required. The amount of fuels tax due on motor fuels may be off-set against any refund due from other motor fuels taxes or income taxes.~~ ~~(3-31-22)~~

**0~~2~~1. Lack of Records to Compute Fuel Consumption Rate**. When a motor fuels consumer does not keep sufficiently detailed records to determine motor fuels consumed by its motor vehicles, the consumption rates found in Subsection 290.05 of these rules are presumed to be correct. (3-31-22)

**0~~3~~2. Fuel Records**. If the motor fuels consumer does not keep sufficiently detailed records to determine taxable gallons, all tax-exempt motor fuels purchased is subject to the fuels tax unless the number of gallons placed into the supply tank of the licensed or required to be licensed motor vehicle can be determined. (3-31-22)

**231. -- 249. (RESERVED)**

**250. REFUND CLAIMS -- REPORTING ~~(RULE 250)~~.**
Sections 63-2410, 63-2423, Idaho Code

**01. ~~Requirements of a~~A Valid Refund Claim**. Before the Tax Commission can credit or refund motor fuels taxes, the taxpayer making the claim must establish both of the following: ~~(3-31-22)~~( )

**a.** The basis for the credit or refund claim, and (3-31-22)

**b.** The amount of the credit or refund. (3-31-22)

**02. ~~Refund May Be Claimed Only by~~ Final Consumer May Claim Refunds**. Refunds of motor fuels taxes may be claimed on ~~forms prescribed by the~~ Tax Commission prescribed forms by the person who purchased and used the motor fuels upon which the tax has been paid ~~and for which a refund may be claimed~~. In the case of all partnerships and any corporations filing ~~Idaho Form 41S, relating to S Corporations~~ income tax returns, ~~any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by~~ the partnership or corporation has to be the claimant for refunds of motor fuels taxes they paid. The refund may not be applied to the individual returns filed by partners or shareholders. ~~(3-31-22)~~( )

**03. Refund Applied to Taxes Due**. Any refund due to a consumer is applied first to any liability due under any law administered by the Tax Commission, including any liability under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has not filed any tax return required to be filed with the Tax Commission. Any balance of the refund exceeding taxes due will be paid as a refund to the entity filing the return. (3-31-22)

**251. -- 269. (RESERVED)**

**270. REFUND CLAIMS – GENERAL AND BULK DOCUMENTATION ~~(RULE 270)~~.**
Sections 63-2410, 63-2421, 63-2423, Idaho Code

**01. Refunds to Consumers**. ~~Tax-paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. Refund claims and required worksheets must be made on forms provided or approved by the~~ Fuels tax refunds claims will be on Tax Commission prescribed forms. ~~(3-31-22)~~( )

**02. Records Retention ~~Requirements~~**. All claimants ~~must~~ will keep records for the greater of either: ~~(3-31-22)~~( )

**a.** Three (3) years from the due date, including extensions, of the income tax return; (3-31-22)

**b.** The time during which the taxpayer's income tax return is subject to adjustment by either the Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return; or ~~(3-31-22)~~( )

**c.** Four (4) years, if an IFTA licensee. (3-31-22)

**03. Mandatory Records ~~Required~~ – General~~ly~~**. A claimant ~~must have~~ will maintain fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment ~~using the fuel~~ for use in a nontaxable manner. Fuel purchase records ~~must~~ have to contain the information ~~required~~ stipulated by ~~Rule~~ Sectio ~~1~~n 150 of these rules. Fuel purchase records ~~must~~ need to be reissued if altered or corrected. ~~(3-31-22)~~( )

**04. Mandatory Records ~~Required~~ – Retail Fuel Purchases**. When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is ~~required~~ mandatory. The vehicles ~~or~~, piece of equipment, or commercial motorboat using the fuel ~~must~~ has to be recorded on the receipt. ~~If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats, identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles.~~ For fuel placed into containers, identify the vehicle, piece of equipment, or commercial motorboat the fuel was used in on the receipt. ~~(3-31-22)~~( )

**05. Mandatory Records ~~Required~~ – Bulk Fuel Purchases**. When claiming a fuel tax refund on fuel delivered in bulk, the claimant ~~must provide~~ will maintain the following documentation: ~~(3-31-22)~~( )

**a.** Seller Invoices. (3-31-22)

**b.** Withdrawal Logs. (3-31-22)

i. ~~Complete~~ It is mandatory that withdrawal logs ~~must give~~ identify the date, the vehicle or piece of equipment, and the amount of fuel withdrawn. ~~(3-31-22)~~( )

ii. Withdrawal logs aren't ~~required for claimants with two (2) or more bulk storage tanks at the same location with Idaho tax-paid fuel of the same type for taxable and nontaxable uses. Claimants must identify each storage tank for taxable or nontaxable use~~ necessary when separate, identified, and dedicated bulk storage tanks are used for taxable and nontaxable uses at the same location. The seller ~~must~~ has to mark the invoices at the time of delivery and identify the storage tanks ~~in~~ to which the fuel was delivered. ~~(3-31-22)~~( )

**c.** Bulk ~~Fuel Inventory Reconciliations. Reconciliations must~~ fuel inventory reconciliations include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading. ~~(3-31-22)~~( )

**06. Alternate Method for Bulk Tanks – Authorized Percentage**. ~~A claimant can request an~~

~~authorized percentage i~~If the claimant using Idaho tax-paid fuel from ~~one (1)~~ a single bulk tank in both a taxable and nontaxable manner~~. IFTA licensees and owners of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location can't use an authorized percentage. The claimant must submit a completed authorized percentage request form before using any percentage to claim a refund.~~, the claimant may submit a request to use an authorized percentage on a Tax Commission prescribed form. A claimant needs approval from the Tax Commission before using an authorized percentage. ~~The request must itemize~~ Itemization of all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use will be included on the request form. ~~Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by~~ Requests will be denied if the claimant: ~~(3-31-22)~~( )

**a.** ~~Equipment purchase records~~Fails to fully complete the authorized percentage request form; ~~(3-31-22)~~( )

**b.** ~~Sales or rental receipts; and~~Fails to provide equipment lists supported equipment purchase records, sales or rent receipts, and depreciation schedules; ~~(3-31-22)~~( )

**c.** ~~Depreciation schedules.~~Fails to keep and provide records to support an authorized percentage upon request of the Tax Commission; ~~(3-31-22)~~( )

**d.** Is an IFTA licensee; or ( )

**e.** Is an owner of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location. ( )

**07. Untaxed Motor Fuel Audits**. ~~Untaxed motor fuel cannot be used in licensed or required to be licensed motor vehicles unless authorized in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, a~~ All fuel tax refund claims are subject to audit by the Tax Commission and no part of these rules may be construed to imply that an audit ~~may not~~ cannot be performed. ~~Tax-paid motor fuel is not exempt from taxes imposed by the Idaho Sales Tax Act when the motor fuel tax is refunded.~~ ~~(3-31-22)~~( )

**08. Tribal~~Indian~~-Owned Retail Outlet**. Motor fuels purchased ~~after December 1, 2007,~~ from ~~an Indian~~ a tribal-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002~~, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules~~. ~~(3-31-22)~~( )

**271. -- 289. (RESERVED)**

**290. ~~MOTOR VEHICLES~~ REFUND CLAIMS – NONTAXABLE MILES ~~(RULE 290)~~.**
Sections 63-2410, 63-2423, Idaho Code

**01. Refunds to Consumers – Nontaxable Miles**. ~~Tax-paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund.~~ Refund claims ~~and required worksheets must~~ will be made on ~~forms provided or approved by the~~ Tax Commission prescribed forms. The records retention and fuel record ~~requirements~~ mandates in Subsections 270.02 through 270.05 of these rules also apply to this section. ~~(3-31-22)~~( )

**02. Nontaxable Miles Defined**. Nontaxable miles are miles driven on roads: (3-31-22)

**a.** Not open to the public; ~~or~~ ~~(3-31-22)~~( )

**b.** Not maintained by a governmental entity; ~~or~~ ~~(3-31-22)~~( )

**c.** Located on private property maintained by the property owner; ~~or~~ ~~(3-31-22)~~( )

**d.** Under construction and not open to the public; or (3-31-22)

**e.** Constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Title 38, Chapter 1, ~~Title 38,~~ Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is ~~required~~ mandated to pay the cost of maintaining these roads by contract or permit. ~~(3-31-22)~~( )

**03. Mandatory Records ~~Required~~ – Mileage Records**. Mileage records are ~~required~~ needed to claim a refund of tax when using special fuels on nontaxable roads. ~~Claimants~~ It is mandatory for claimants operating under the authority of ~~the~~ IFTA or IRP ~~are required~~ to follow the recordkeeping ~~requirements~~ mandates of IFTA and IRP in addition to ~~the requirements~~ those of this section. Idaho Full Fee registrants ~~must follow the requirements of Rule~~ will also comply with Section 422 of these rules ~~and this section~~. ~~(3-31-22)~~( )

**04. Records ~~Required~~ – Actual Nontaxable Miles**. ~~Nontaxable miles must be documented for each trip using~~ Unless otherwise allowed by these rules, use of odometer, hubometer, or GPS readings for each trip is mandatory to document actual nontaxable miles. ~~(3-31-22)~~( )

**05. Alternate Methods**. A claimant, who is not an IFTA licensee or IRP registrant, may use an alternate method to determine nontaxable miles or use a presumed miles per gallon (MPG) to determine fuel use ~~unless they are an IFTA licensee or IRP registrant in any participating jurisdiction. Claimants may estimate using one of the methods below~~. ~~(3-31-22)~~( )

**a.** Estimating Nontaxable Miles. Nontaxable miles may be estimated by using maps, contracts, or a Tax Commission approved trip analysis. ~~Upon request, t~~ The claimant ~~must~~ is obligated to provide the documents supporting the estimat~~ion~~e upon request by the Tax Commission. Maps other than the Official Idaho Highway map miles are estimates. ~~(3-31-22)~~( )

**b.** Estimating Nontaxable Gallons. Nontaxable gallons may be estimated using presumed MPG~~s~~. Upon request, the claimant ~~must~~ is obligated to provide the tax-paid fuel purchase records supporting the total gallons claimed. ~~(3-31-22)~~( )

i. Presumed MPG~~s~~ by Weight. The following are presumed MPGs by gross vehicle weight (GVW) or registered GVW:

| | |
|---|---|
| Over 40,000 GVW | 4.0 MPG |
| Over 26,000 GVW to 40,000 GVW | 5.5 MPG |
| Over 12,000 GVW to 26,000 GVW | 7.0 MPG |
| 12,000 GVW or less | 10.0 MPG |

~~(3-31-22)~~( )

ii. Presumed MPG~~s~~ by Operation. The following are presumed MPG~~s~~ for vehicles over 40,000 GVW or registered GVW used in certain industries:

| | |
|---|---|
| Logging | 4.3 MPG |
| Agricultural | 4.5 MPG |
| Sand, gravel ~~&~~ and rock hauling | 4.0 MPG |
| Construction | 4.4 MPG |

~~(3-31-22)~~( )

**291. (RESERVED)**

**292. REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES ~~(RULE 292)~~.**
Sections 63-2410, 63-2423, Idaho Code

**01. Refund to Consumers — PTO and Auxiliary Engines.** ~~Tax-paid fuel used in PTO and auxiliary engines qualifies for a fuels tax refund under Sections 63-2410 and 63-2423, Idaho Code.~~ PTO refunds are only allowed for special fuels. Auxiliary engine refunds are allowed for gasoline or special fuels. Refund claims ~~and required worksheets must~~ will be made on ~~forms provided or approved by the~~ Tax Commission prescribed forms. The records retention and fuel record ~~requirements~~ mandates in Subsections 270.02 through 270.05 of these rules also apply to this section. ~~(3-31-22)~~( )

**02. PTO and Auxiliary Engines Defined.** A PTO uses fuel from the main supply tank to operate the main engine for a purpose other than operating or propelling the vehicle on the road. An auxiliary engine uses fuel from the vehicle's main supply tank to operate an engine other than the vehicle's main engine. (3-31-22)

**03. Mandated Records ~~Required~~ – Actual Consumption Refunds.** Actual fuel consumption for PTO and auxiliary engines may be claimed when the PTO or auxiliary engines are equipped with an electronic monitoring device. ~~The~~ It is mandatory for the monitoring device ~~must provide~~ to identify the date, time of use, and gallons metered. The Tax Commission may request verification that the electronic monitoring device is reporting consumption correctly. ~~(3-31-22)~~( )

**04. Alternate Methods – Standard Allowances.** ~~The following are~~ An IFTA licensee is not allowed to use alternate methods to determine nontaxable fuel use. The Tax Commission has adopted the following standard allowances: ~~adopted by the Tax Commission. An IFTA licensee isn't allowed to use alternate methods to determine nontaxable fuel use. Claimants may estimate using unit quantities, percentages, or the nonstandard allowance method.~~ ~~(3-31-22)~~( )

**a.** Allowances based on unit quantities:

| Allowance Type | Allowance Rates | x | Unit Quantities |
|---|---|---|---|
| Gasoline/fuel oil | 0.00015 gallons | x | Gallons pumped |
| Bulk cement | 0.1858 gallons | x | Tons pumped |
| Refrigeration unit/reefer | 0.75 gallons | x | Hours unit operated |
| Tree length timber/logs | 0.0503 gallons | x | Tons Hauled |
| Tree length timber/logs | 3.46 gallons | x | Hours unit operated |
| Carpet cleaning | 0.75 gallons | x | Hours unit operated |
| Concrete Pumping | 0.142857 gallons | x | Yards pumped |

(3-31-22)

**b.** Allowances based on percentages:

| Allowance Type | Percentage Per Gallon | x | Gallons Consumed |
|---|---|---|---|
| Concrete mixing | 30% | x | Gallons consumed |
| Garbage trucks | 25% | x | Gallons consumed |

(3-31-22)

**05. Nonstandard Allowances.** A claimant ~~must request a nonstandard allowance from the Tax~~

~~Commission if they want to use~~ will submit a written request to the Tax Commission for authorization to use an allowance different from those listed in this section. ~~A claimant must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance.~~ The Tax Commission may request additional information or documentation ~~as needed in order~~ to make a determination on the request. ~~(3-31-22)~~( )

**293. -- 299. (RESERVED)**

**300. ADMINISTRATION, RULES AND DELEGATION OF AUTHORITY ~~(RULE 300)~~.**
Section~~s~~ 63-2434, 63-2442, Idaho Code
Personnel of the Idaho Transportation Department ~~Personnel as Deputies of the Tax Commission. Pursuant to the authority of Sections 63-2434 and 63-2442, Idaho Code, those individuals employed by the Idaho Transportation Department~~ employed in the operation of stationary or mobile Ports of Entry are designated as deputies of the Tax Commission for exercising the powers necessary to enforce the provisions of the special fuels tax laws. Such authority includes exercise of the powers described in ~~Rule~~ Section 400 of these rules. ~~(3-31-22)~~( )

**301. -- 309. (RESERVED)**

**310. EXEMPTION FROM ~~REQUIREMENT FOR~~ TAX BOND~~S (RULE 310)~~.**
Section 63-2428, Idaho Code

**01. ~~Exemption to~~ Bond ~~Requirements~~ Exemption for Licensed Distributors**. Bonds are ~~required of~~ mandatory for all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from ~~the~~ bonding ~~requirement must~~ may apply for the exemption by filing a written petition with the Tax Commission. The petition ~~must~~ will contain information ~~relating to the requirements of~~ defined in Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor ~~must~~ will submit ~~any~~ information ~~required in the following Subsections 310.01.a. through 310.01.c.~~ detailed as follows: ~~(3-31-22)~~( )

**a.** If all or any part of the unencumbered property offered to show financial solvency is real property, the petition ~~must~~ will include both: ( )

i. ~~a~~A title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition, and ( )

ii. ~~a~~A copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. ~~(3-31-22)~~( )

**b.** If all or any part of the unencumbered property is licensed motor vehicles, the petition ~~must~~ will include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. ~~(3-31-22)~~( )

**c.** If all or any part of the unencumbered property is personal property other than motor vehicles, the petition ~~must~~ will include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all ~~of t~~ the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are ~~required~~ needed to establish that no security interests or other encumbrances exist. ~~(3-31-22)~~( )

**d.** The petitioner ~~must~~ will arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Tax Commission a current and complete credit report about the licensed distributor; or~~,~~ the distributor ~~must~~ will include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements ~~must~~ are to be accompanied by an opinion issued by an independent certified public accountant ~~and a~~. A responsible company officer ~~must~~ will also certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements ~~must~~ will be reviewed by a certified public accountant~~, or licensed public accountant~~ and a

responsible company officer ~~must also~~ will certify that the financial statements provided present fairly the financial position of the company. ~~(3-31-22)~~( )

**e.** The Tax Commission may ~~require~~ request the distributor ~~to~~ supplement its petition with ~~such f~~ further information ~~as the Tax Commission, in its discretion, finds necessary~~ to determine financial responsibility. If ~~incomplete or substitute submissions are received by~~ the Tax Commission receives incomplete or substitute information, the ~~information submitted is~~ submissions are reviewed on a case-by-case basis to determine whether ~~an exemption from the bonding requirement~~ a bond exemption is granted. ~~(3-31-22)~~( )

**02. Conditions for Termination of Exemption**. If granted, the exemption from ~~the~~ bonding ~~requirement~~ will terminate: ~~(3-31-22)~~( )

**a.** One (1) year after the date on which it was granted. (3-31-22)

**b.** Ninety (90) days after the occurrence of any delinquency in motor fuels tax unless the delinquency has been paid within that time period. (3-31-22)

**c.** Upon the occurrence of any encumbrance ~~of any of~~ to the property upon which the finding of financial responsibility was based. ~~(3-31-22)~~( )

**d.** Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond ~~required~~ to be increased to an amount greater than the value of the distributor's unencumbered assets. ~~(3-31-22)~~( )

**e.** Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (3-31-22)

**03. ~~Bond Requirement u~~Upon Termination of a Bond Exemption**. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2428, Idaho Code. ~~(3-31-22)~~( )

**04. Pending Bond Exemption Application ~~Does Not Excuse the Bond Requirement~~**. Having an application pending for a bond exemption ~~from the requirement for a bond~~ does not excuse the bond. If a bond exemption is due to expire, the distributor ~~must~~ is obligated to submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition ~~must~~ has to meet all ~~of the requirements~~ the conditions of this rule. ~~(3-31-22)~~( )

**05. Conditions for Renewal of Bond Exemption**. The following ~~must be submitted~~ is necessary to renew a bond exemption: ~~(3-31-22)~~( )

**a.** A written request for renewal of waiver; and ~~(3-31-22)~~( )

**b.** The information required in Subsections 310.01.a. through 310.01.e. of this rule. (3-31-22)

## 311. IFTA LICENSE BOND ~~(RULE 311)~~.

Sections 63-2442A, 63-2470, Idaho Code

**01. General**. The Tax Commission may ~~require~~ compel an IFTA licensee to post a bond following the ~~requirements of the IFTA Agreement in order~~ IFTA provisions to maintain their license. A bond may be ~~required when he files returns or remits taxes, separately or in combination,~~ necessary when returns are filed or tax payments are remitted after the due date at least three times within a three-year period. When a bond is ~~required~~ obligated, the licensee ~~must~~ will post the bond within thirty (30) days from the date of the request. ~~When~~ If no bond is posted within ~~the~~ thirty (30) days, the license is automatically revoked ~~and it must be surrendered to the Tax Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate~~. Tax may be assessed for any unreported liability ~~(3-31-22)~~( )

**02. Reinstating Revoked Licenses**. An applicant may be ~~required~~ obligated to post a bond ~~when he~~

~~has~~ if they have previously had ~~his~~ their IFTA license revoked or is related to a person who has previously had their IFTA license revoked. An applicant is related to a person who has previously had ~~his~~ their IFTA license revoked when: ~~(3-31-22)~~( )

**a.** ~~The applicant is owned at least twenty five percent (25%) by a person or persons who has previously had their IFTA license revoked.~~The person or persons owns at least twenty-five percent (25%) interest in the applicant, or ~~(3-31-22)~~( )

**b.** The ~~applicant is operated or controlled by a~~ person or persons ~~who has previously had their IFTA license revoked~~ operates or controls the applicant. Operation and control includes~~,~~ but ~~is~~ are not limited to, an officer or director or other person authorized ~~by the applicant~~ to engage in the business or commercial activity of the applicant. ~~(3-31-22)~~( )

**03. ~~Amount and~~ Type of Bond.** ~~The amount of the bond is one thousand dollars ($1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax paid credits.~~ Any type of bond allowed by ~~the~~ IFTA ~~Agreement~~ or these rules may be secured. The bond amount is reviewed annually~~,~~ but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount is raised, lowered, or remains unchanged. ~~(3-31-22)~~( )

**04. Bond Waiver Request**. The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee ~~must~~ has to be a quarterly filer. The licensee ~~must~~ needs to have submitted the quarterly returns and paid the tax due by the due date for one calendar year. ~~An annual filer may not request a bond waiver.~~ ~~(3-31-22)~~( )

**05. Denial of Bond Waiver Request and Appeal of Denial**. The Tax Commission may deny a bond waiver request when it determines that waiving the bond ~~requirement~~ puts the financial interests of IFTA jurisdictions in jeopardy. The licensee ~~must~~ needs to follow the appeal procedure in Section 63-2470, Idaho Code, to appeal the denial of a bond waiver request. ~~(3-31-22)~~( )

**312. -- 319. (RESERVED)**

**320. RECORDS RETENTION ~~REQUIREMENTS (RULE 320)~~.**
Section 63-2429, Idaho Code

**01. Mandatory Records ~~Required~~**. Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in ~~this state~~ Idaho will keep such records, receipts, and invoices ~~as will s~~ showing all purchases, sales, receipts, or deliveries of motor fuels ~~in this state~~. Such records ~~is~~ are maintained for at least three (3) years. ~~(3-31-22)~~( )

**02. Motor Fuels Subject to Use Tax**. Any person who has purchased tax-exempt motor fuel and subsequently uses the fuel in a taxable manner, ~~must~~ will maintain ~~enough~~ records to establish the tax due. ~~(3-31-22)~~( )

**03. Original Invoice Retention**. The original invoices, ~~required~~ mandated by ~~Rule~~ Section 270 of these rules, relating to refunds of motor fuels tax paid on certain fuel used off-road, ~~must~~ will be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the Tax Commission or by voluntary action of the taxpayer. ~~(3-31-22)~~( )

**321. -- 399. (RESERVED)**

**400. IFTA LICENSING AND SPECIAL FUELS PERMITTING ~~(RULE 400).~~**
Sections 49-432, 49-434, 63-2401, 63-2434, 63-2438 through 63-2440, 63-2442A, 63-2455, Idaho Code

~~**01. In General.** It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63-2401, Idaho Code, on the highways of this state without having obtained one (1) of the following:~~ ~~(3-31-22)~~

~~**a.** A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code.~~ ~~(3-31-22)~~

~~**b.** A temporary fuel tax permit from the Idaho Transportation Department.~~ ~~(3-31-22)~~

~~**c.** An IFTA license.~~ ~~(3-31-22)~~

**021.** **Federal or In-State Governmental Vehicles**. Motor vehicles owned or leased and operated by the federal government or the state of Idaho, ~~or~~ their instrumentalities, or political subdivisions are exempt from ~~these requirements~~ licensing requisites. ~~(3-31-22)~~( )

~~**03.** **Out-of-State Governmental Vehicles**. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions.~~ ~~(3-31-22)~~

**042.** **Temporary Fuel Tax Permits**. Any person ~~who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, must~~ without an IFTA license will secure a temporary fuel tax permit from the Idaho Transportation Department in the manner ~~provided and required~~ prescribed by that department, if operating a motor vehicle:~~.~~ ~~(3-31-22)~~( )

**a.** Over twenty-six thousand (26,000) pounds maximum registered gross weight or ( )

**b.** With three (3) or more axles regardless of weight, and ( )

**c.** Using special fuels on the highways of this state, and ( )

**d.** Not registered to operate the motor vehicle solely within Idaho under Section 49-434, Idaho Code. ( )

**053.** **Penalty for Not Obtaining an IFTA License, or Temporary Fuel Tax Permit**. Operation of a motor vehicle ~~over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code~~, as described in Subsection 400.02. of these rules, without an IFTA license, or an Idaho temporary fuel tax permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Tax Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Section 63-2434, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle ~~required to display, but not displaying,~~ without either an IFTA license or a temporary fuel tax permit. ~~(3-31-22)~~( )

**401. -- 419. (RESERVED)**

**420. DOCUMENTATION FOR IFTA LICENSEE REPORTING ~~(RULE 420)~~.**
Sections 63-2439, Idaho Code

**01. Records ~~Required~~ for ~~Idaho~~ IFTA Licensees.** ~~Records are required to verify the accuracy of any tax report or worksheet filed with the Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit must retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to the mileage of the motor vehicles.~~ The licensee displaying, or obligated to display, an IFTA decal will retain all records relating to the accrued distance of the motor vehicles and all invoices or other documents relating to purchases of special fuels. The licensee will provide these records upon request by the Tax Commission. ~~(3-31-22)~~( )

~~02. Fuel Records. In order for the IFTA licensee to obtain credit for tax paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax-paid purchases taken as credit must include, but is not limited to, the following: (3-31-22)~~

~~a. The date of each receipt of fuel; (3-31-22)~~

~~b. The name and address of the person from whom purchased or received; (3-31-22)~~

~~c. The number of gallons received; (3-31-22)~~

~~d. The type of fuel; (3-31-22)~~

~~e. The specific vehicle into which the fuel was placed; and (3-31-22)~~

~~f. Detailed records of all withdrawals from bulk storage tanks, including the date of withdrawal, the number of gallons withdrawn, the fuel type, the unit number, the equipment type, and inventory records. (3-31-22)~~

02. Distance Records. It is mandatory for all IFTA licensees to maintain detailed distance records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P540. ( )

~~03. Mileage Records. All IFTA licensees must maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records must contain, but not be limited to: (3-31-22)~~

~~a. Total trip miles, including vicinity miles; (3-31-22)~~

~~b. Miles traveled for taxable and nontaxable use; (3-31-22)~~

~~c. Mileage totaled by jurisdiction in which the IFTA vehicle operated; (3-31-22)~~

~~d. Starting and ending dates of trips; (3-31-22)~~

~~e. Trip origin and destination; (3-31-22)~~

~~f. Hubometer or odometer readings from the beginning and ending of each trip; (3-31-22)~~

~~g. Complete routes of travel, that includes interim stops such as pick-up and delivery locations; and (3-31-22)~~

~~h. Vehicle license number or unit number. (3-31-22)~~

03. Fuel Records. It is mandatory for all IFTA licensees to maintain detailed fuel records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P550. ( )

**04. Additional Records ~~Requirements~~.** Other records may be requested, such as: ~~(3-31-22)~~( )

**a.** Bills of lading or manifest documents; (3-31-22)

**b.** Vehicle dispatch ledgers; (3-31-22)

**c.** Accounts payable and receivable; (3-31-22)

**d.** Lease agreements; (3-31-22)

**e.** Driver pay records; (3-31-22)

**f.** Driver logs; (3-31-22)

**g.** Fuel use trip permits; ~~and~~ ~~(3-31-22)~~( )

**h.** Registration trip permits; ( )

**i.** Other commercial vehicle permits; and ( )

~~**h.**~~**j.** Other documents used in preparing fuel tax reports. (3-31-22)

**05. Summaries**. ~~Individual trips must~~ In addition to the information outlined in the IFTA Procedures Manual Section P560, individual trips for each vehicle have to be accumulated into monthly summaries in total and by jurisdiction. These summaries ~~must~~ have to be used as the basis for the miles submitted on the IFTA quarterly or annual reports. ~~(3-31-22)~~( )

~~**06. Computer Support**. Computer summaries must be supported by trip sheets or logs verifying mileage traveled.~~ ~~(3-31-22)~~

**07~~6~~. ~~Mileage~~Distance Information**. Information recorded on trip sheets ~~must~~ is to be legible and reflect actual ~~miles~~ distance traveled. ~~Mileage~~ Distance records ~~must~~ will include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) ~~miles~~ distance traveled. ~~(3-31-22)~~( )

**08~~7~~. ~~Records~~ Retention and Availability of Records**. IFTA licensees ~~must retain records at least four (4) years~~ need to retain and make available records according to IFTA Procedures Manual Section P510. ~~(3-31-22)~~( )

**09~~8~~. Distance~~Mileage~~ Disputes**. Whenever a ~~mileage~~ distance dispute arises between the taxpayer and the Tax Commission, the official ~~mileage~~ distance map distributed by the appropriate authority in each jurisdiction is used to resolve the point-to-point ~~mileage~~ distance differences. ~~(3-31-22)~~( )

**421. DOCUMENTATION FOR IDAHO IRP REGISTRANTS ~~(RULE 421)~~.**
Section 49-439, Idaho Code

**01.** ~~Records Required For IRP.~~ **Registrants**. ~~must~~ Registrants are obligated to keep records, by individual vehicle per registered fleet, ~~to~~ verifying the accuracy of any IRP application submitted to the Idaho Transportation Department for each application reporting period of July 1st through June 30th. Registrants ~~must keep the records required by Rule~~ are held to the standards established by Section 420 of these rules for all IRP registered vehicles. ~~Also, registrants must keep individual vehicle records by registered fleet for each application reporting period of July 1st through June 30th.~~ ~~(3-31-22)~~( )

**422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS ~~(RULE 422)~~.**
Section 49-439, Idaho Code

**01. Records ~~Required~~ For Idaho Full Fee Registrations**. Registrants ~~must~~ are obligated to keep records, by individual vehicle, ~~to~~ verifying the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department for each reporting period of July 1st through June 30th, unless exempted pursuant to Section 49-439, Idaho Code. ~~No records are required for full fee vehicles registered at less than sixty-two thousand (62,000) lbs. gvw or those registered at the maximum tier, of over fifty thousand (50,000) miles per reporting period. Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th. Examples of records~~ Mandatory records include, but are not limited to: ~~(3-31-22)~~( )

**a.** Distance Measuring Devices. ~~Odometer~~ Distance is measured using an odometer, hubometer, GPS or perpetual life-to-date readings. Records ~~must include~~ identify the date the reading was recorded and the reading. When changing devices, the change ~~must~~ needs to be properly documented. ~~(3-31-22)~~( )

**b.** Daily Trip Logs. Logs include the date of travel, origin and destination of the trip, and number of miles traveled. Logs may be supported by load tickets, billing invoices, or other original source documents that can

verify miles traveled. (3-31-22)

**c.** Number of Trip/Round Trip Miles. When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round-trip miles. Computations ~~must~~ need to be supported by scale tickets, load tickets, a route map, or a Tax Commission approved trip analysis. ~~(3-31-22)~~( )

**d.** Fuel Purchases. ~~Retail fuel purchases~~ Valid retail fuel purchase records are fuel invoices with the date, location, quantity, and type of fuel purchased. Bulk fuel records ~~must~~ need to be sufficient to prove the accuracy of the fuel use. Fuel purchase records ~~must~~ need to show the usage per unit. The records ~~must~~ need to document how the average ~~miles per gallon (~~ MPG~~)~~ was calculated. ~~(3-31-22)~~( )

**02. Credit for Off-Road Miles and Documentation ~~Required~~**. Credit for off-road miles may be given for roads not maintained by a government entity or roads built or maintained by the registrant pursuant to a contract, according to Section 290 of these rules. These include roads on private property, roads under construction but not open to the public, and may include designated Forest Service roads. Off-road miles ~~must~~ need to be documented by using odometer readings, maps, contracts, GPS readings, or a Tax Commission approved trip analysis. ~~(3-31-22)~~( )

**03. IFTA Licensees with Full Fee Registration**. An IFTA licensee with full fee registration ~~must~~ will maintain records ~~required~~ mandated by IFTA. ~~(3-31-22)~~( )

~~**423. -- 499. (RESERVED)**~~

~~**500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (RULE 500).**~~
~~Section 41-4909, Idaho Code~~
~~The Transfer Fee. The fee imposed by Section 41-4909, Idaho Code, is The Idaho Clean Water Trust Fund is called the Transfer Fee.~~ ~~(3-31-22)~~

~~**501. TRANSFER FEE REINSTATED (RULE 501).**~~
~~Section 41-4909, Idaho Code~~
~~The Transfer Fee was suspended as of October 1, 1999. The Transfer Fee was reinstated on September 1, 2007.~~
~~(3-31-22)~~

**~~502~~423. -- 509. (RESERVED)**

**510. APPLICATION AND REPORTING OF THE TRANSFER FEE (RULE 510).**
Sections 41-4902, 41-4903, 41-4909, 63-2401, 63-2403, 63-2406, Idaho Code

**01. Application**. (3-31-22)

~~**a.** The Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent ($0.01) for each gallon of petroleum or petroleum product received. The fee is paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180.~~ ~~(3-31-22)~~

~~**b.**~~ The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is ~~required~~ mandated to report and pay the transfer fee to the Tax Commission. ~~The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature.~~ Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits have to be claimed in the distributor report. ~~(3-31-22)~~( )

**02. Receipt of Petroleum Products**. Receipt of petroleum or petroleum products ~~is determined according to Section 63-2403, Idaho Code. Receipt~~ is determined by the movement ~~of petroleum or petroleum products~~ from a from permanent storage facility (terminal) or crossing the Idaho border ~~of this state~~. Storage of petroleum or petroleum products is incidental to ~~the~~ its movement ~~of the petroleum or petroleum products~~.

~~(3-31-22)~~( )

**03. Exemption to Application of the Transfer Fee**. ~~The Transfer Fee does not apply to petroleum or petroleum products that are:~~ ~~(3-31-22)~~

~~**a.** Returned to the refinery or pipeline terminal.~~ ~~(3-31-22)~~

~~**b.** Exported from this state. No fuel is considered exported, unless the distributor can prove the export by documentation required by Rule 130 of these rules.~~ ~~(3-31-22)~~

~~**c.** Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation.~~ ~~(3-31-22)~~

~~**d.** Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products~~ Exemptions are according to Sections 41-4909 and 41-4943, Idaho Code. ~~(3-31-22)~~( )

**04. Casualty Loss and Two Percent (2%) Allowance Not Deductible**. All petroleum and petroleum products received in this state that are not within an exemption or exclusion ~~listed in this rule~~ provided by law are subject to the fee, without further deductions or discounts despite the product's use. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the ~~T~~ttransfer ~~F~~ffee. ~~(3-31-22)~~( )

**05. Petroleum and Petroleum Products**. ~~The products subject to the Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14.7/10) psi. These products are all products~~ Products refined from crude oil ~~including~~ include. but are not limited to:

**a.** motor gasoline, ( )

**b.** alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, ( )

**c.** diesel fuel (#1 - #6), ( )

**d.** biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, ( )

**e.** heating oil, ( )

**f.** aviation fuel, ( )

**g.** naphtha, ( )

**h.** naphtha-type jet fuel, ( )

**i.** kerosene-type jet fuel (JP#1 - #8), ( )

**j.** motor oil, ( )

**k.** brake fluid, ( )

**l.** tractor fuel, ( )

**m.** distillate fuel oil, ( )

**n.** stove fuel, ( )

**o.** unfinished oils, ( )

**p.** turpentine substitutes, ( )

**q.** lamp fuel, ( )

**r.** diesel oils (#1 - #6), ( )

**s.** engine oils, ( )

**t.** railroad oils, ( )

**u.** kerosene, ( )

**v.** commercial solvents, ( )

**w.** lubricating oils, ( )

**x.** fuel oil, ( )

**y.** boiler fuel, ( )

**z.** refinery fuel, ( )

**aa.** industrial fuel, ( )

**bb.** bunker fuel, ( )

**cc.** residual fuel oil, ( )

**dd.** road oils, and ( )

**ee.** transmission fluids. ( )

**ff.** The following are treated as petroleum or petroleum products that are subject to the transfer fee: ( )

i. Ethanol (E00), ( )-

ii. natural gasoline, and ( )

iii. biodiesel (B00)~~ are also defined as petroleum and petroleum products that are subject to the Transfer Fee.~~ ~~(3-31-22)~~( )

**06. Exclusion of Petroleum and Petroleum Products on Which the Fee Has Previously Been Paid**. Used oil~~ as defined by 40 CFR Part 279 (July 1, 2000)~~ is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor will not report used oil generated in Idaho on the distributor report nor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor~~ must~~ has to report and pay the transfer fee unless an exemption or exclusion applies. ~~(3-31-22)~~( )

**07. Motor Fuel Distributor License and Limited Distributor License**. Any person holding a motor fuel distributor license issued by the Tax Commission under Title 63, Chapter 24,~~ Title 63,~~ Idaho Code, is also

licensed for the ~~T~~transfer ~~F~~fee. No additional license is ~~required~~ necessary. Any person who receives any petroleum or petroleum products in ~~this state, but~~ Idaho, and who is not a licensed distributor ~~n~~or ~~required~~ obligated to obtain a motor fuel distributor license ~~applies to the Commission~~, needs to apply for a limited distributor license with the Tax Commission. The limited distributor license is only for reporting the ~~T~~transfer ~~F~~fee. ~~(3-31-22)~~( )

**08. Mandatory Reporting ~~Requirements~~.** ~~(3-31-22)~~( )

**a.** A motor fuel distributor will report and pay the ~~T~~transfer ~~F~~fee with the distributor~~'s~~ report ~~required by~~ in accordance with Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the ~~T~~transfer ~~F~~fee is included in the ~~report in which the distributor is required to report the tax on the~~ distributor report for the same fuel. ~~(3-31-22)~~( )

**b.** Persons holding a limited distributor license will file a monthly report ~~with the Commission on forms prescribed by the Commission~~ using Tax Commission prescribed forms on or before the last day of the month following the month to which the report relates. ~~(3-31-22)~~( )

**c.** The ~~T~~transfer ~~F~~fee ~~must~~ has to be reported according to ~~Rule~~ Section 130 of these rules. ~~(3-31-22)~~( )

**09. Payment**. (3-31-22)

**a.** Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. ~~(3-31-22)~~( )

**b.** Any partial payment or collection of amounts shown due or ~~required~~ obligated to be shown due on a distributor's report, plus any additional amount of penalty or interest due, is allocated between the motor fuels tax and the ~~T~~transfer ~~F~~fee in the same proportion that the liability for the tax and the fee bear to the total liability. ~~(3-31-22)~~( )

**511. -- 999. (RESERVED)**

# IDAPA 35 – IDAHO STATE TAX COMMISSION

## 35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAXES ADMINISTRATIVE RULES

## DOCKET NO. 35-0110-2401 (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 63-105, Idaho Code.

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

**Tuesday, October 1, 2024 at 2:00 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=m46424fa37f3fdfdf58b32b5b756030d2**

**Join by meeting number:**
**meeting number (access code) 2632 814 3495**
**meeting password: JJncgPqp224**

**Join by phone:**
**+1-415-655-0001 US Toll**

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 State Tax Commission performed a critical and comprehensive review of the statutes and existing rules chapter. This chapter rewrite was done under the premise of zero-based rulemaking, as per Executive Order 2020-01: Zero Based Rule Regulation.

**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: 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 April 3, 2024 Idaho Administrative Bulletin, Vol. 24-4, page 48.

**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 Elena Gonzalez, (208) 334-7855.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 2, 2024.

DATED this 4th day of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36. Boise ID 83722-0036
(208) 334-7544

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0110-2401**
**(ZBR Chapter Rewrite)**

## 35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAXES ADMINISTRATIVE RULES

**000. LEGAL AUTHORITY ~~(RULE 000)~~.**
~~In accordance with~~ Sections 63-105, 63-2501, 63-2553, Idaho Code~~, the State Tax Commission (Tax Commission) has promulgated rules implementing the provisions of the Idaho Cigarette and Tobacco Products Taxes Acts~~.
~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE ~~(RULE 001)~~.**
~~These rules are titled IDAPA 35.01.10, "Idaho Cigarette and Tobacco Products Taxes Administrative Rules."~~ These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on all cigarette and tobacco products sold, used, consumed, handled or distributed within this state. ~~(3-31-22)~~( )

~~**002. ADMINISTRATIVE APPEALS (RULE 002).**~~
~~Sections 63-2516, 63-2563, Idaho Code~~
~~This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules.~~ ~~(3-31-22)~~

~~**003. INCORPORATION BY REFERENCE (RULE 003).**~~
~~Sections 63-2516, 63-2563, Idaho Code~~
~~These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules."~~
~~(3-31-22)~~

**0042. -- 009. (RESERVED)**

**010. DEFINITIONS ~~(RULE 010)~~.**
Sections 63-2502, 63-2528, 63-2551, 63-3611, Idaho Code
~~Definitions provided by statute, including the definitions in Sections 63-2502, 63-2528, and 63-2551, Idaho Code, apply to these rules. Additionally, the following definitions apply for the purposes of these rules.~~ ~~(3-31-22)~~

~~**01. Distributor**. The term distributor, as defined by Section 63-2551, Idaho Code, includes persons who receive tobacco within this state for purposes of blending and/or repackaging.~~ ~~(3-31-22)~~

~~02. Manufacturer. The term manufacturer means a person who manufactures and sells cigarettes. The term manufacturer, as defined by Section 63-2551, Idaho Code, does not include persons who receive tobacco within this state for purposes of blending and/or repackaging. (3-31-22)~~

~~03. Person. The term "person" includes any individual, firm, partnership, LLC, venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit. (3-31-22)~~

**01. Interstate Commerce Sale**. A sale or other transfer of ownership between a person located in Idaho and a person located outside Idaho or within the boundaries of an Idaho reservation. ( )

**02. Reservation**. Reservation means: ( )

**a.** Federally recognized land reserved for American Indian tribes by treaty with the United States, a state, or a territorial government and established by acts of Congress or the Executive branch of the United States; ( )

**b.** Land held in trust by the United States for the use and benefit of an Idaho tribe; or ( )

**c.** Land reserved for the United States military. ( )

**03. Unmarketable Cigarettes and Tobacco Products**. Any package of cigarettes with an Idaho stamp or tobacco product becomes unmarketable when: ( )

**a.** It is returned to the manufacturer as stale or otherwise unsellable, or ( )

**b.** The manufacturer or brand family of such cigarettes or roll-your-own tobacco is removed from the Idaho Attorney General's directory. ( )

**011. ~~DISTRIBUTION OF FREE OR BELOW COST~~ CIGARETTE AND TOBACCO PRODUCTS SUBJECT TO TAX ~~(RULE 011)~~.**
Sections 63-2506, 63-2510, 63-2510A, 63-2552, 63-2552A, 63-2552B, Idaho Code

**01. ~~Distribution of Free or Below Cost Tobacco Products~~Cigarette Tax**. ~~The distribution of tobacco products for free or below the cost of such products to the sellers or distributors of the products is prohibited by Section 39-5707, Idaho Code. If a free package is given away in a sales promotion that requires the purchaser to buy a specified number of packages, such as buy two (2) get one (1) free, all the packages must bear an Idaho tax stamp~~ Cigarette tax is due when a cigarette stamp is affixed to a package of cigarettes. ~~(3-31-22)~~( )

**a.** Only an Idaho tribe, an enrolled Idaho tribal member, or a business wholly owned and operated by the tribe or tribal member, can purchase unstamped packages of cigarettes for delivery to the reservation. ( )

**b.** Non-tribal retailers located within a tribal reservation are forbidden from selling cigarettes without an Idaho cigarette stamp affixed. ( )

**012. TAX PERMITS ~~(RULE 012)~~.**
Section~~s~~ 63-2503, 62-2504, 63-2526, 63-2554, Idaho Code
~~Every wholesaler of cigarettes is required to obtain a cigarette wholesaler's permit from the Tax Commission and post a bond as required by Rule 017 of these rules before engaging in business. The wholesaler must apply for the permit on the form prescribed by the Tax Commission, accompanied by a fee of fifty dollars ($50). Application forms may be obtained by contacting the Tax Commission. The permit holder will at all times conspicuously display the permit at their place of business. (3-31-22)~~

**01. ~~Permit Is Nonassignable~~Cigarette Tax Permit**. ~~A cigarette wholesaler's permit is nonassignable. Upon any change of ownership, it is the responsibility of the permit holder to immediately give written notification to the Tax Commission.~~ A wholesaler does not need a cigarette tax permit when buying only stamped cigarettes. It is

mandatory to have a cigarette tax permit when: ~~(3-31-22)~~( )

**a.** ~~The notice will set forth the date of closure, date of sale, or date of lease of the business. If a sale or lease, the notice must state the last day of operation and the name of the new owner or lessee. The permit holder must return the permit or send a written statement that the permit has been destroyed~~The wholesaler affixes Idaho stamps to packages of cigarettes. ~~(3-31-22)~~( )

**b.** ~~If this information is not furnished to the Tax Commission and the new owner or lessee continues operation of the business on the previous owner's cigarette wholesaler's permit without filing for and obtaining a new permit, the original permit holder may be held responsible for all tax liability incurred during the period that the new owner or lessee operated the business under the previous owner's permit~~The wholesaler is located in Idaho and makes interstate commerce sales of cigarettes. ~~(3-31-22)~~( )

**c.** The wholesaler makes sales delivered to a reservation and the purchaser is the U.S. military, an Idaho tribe, an enrolled Idaho tribal member, or a business wholly owned and operated by the tribe or tribal member. ( )

**02.** ~~**Seller's Permit**~~**Permits Non-Transferable**. ~~Every retailer of cigarettes must obtain an Idaho seller's permit from the Tax Commission before engaging in business as required by Section 63-3620, Idaho Code. When a wholesaler sells stamped cigarettes to a retailer of cigarettes, they must obtain from the retailer a Sales Tax Resale or Exemption Certificate, Form ST-101~~ When a business is sold or transferred the permits are not transferable. ~~(3-31-22)~~( )

**a.** It is mandatory for the new owner or lessee to obtain their own permits. ( )

**b.** If the previous owner does not cancel their permits, they may be responsible for all tax, penalty, and interest resulting from the use of their permit by the new owner or lessee. ( )

**c.** Cancellation of a permit is accomplished by written notice to the Tax Commission. ( )

~~**013. SHIPMENTS IN INTERSTATE COMMERCE (RULE 013).**~~

~~Section 63-2505, Idaho Code~~

~~Sales of cigarettes in the course of interstate commerce for purposes of Section 63-2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations.~~ ~~(3-31-22)~~

~~**01. Types of Conveyances**. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler's business, or by common carrier hired by the wholesaler.~~ ~~(3-31-22)~~

~~**a.** In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler's place of business for three (3) years.~~ ~~(3-31-22)~~

~~**b.** In the case of shipments by the wholesaler's conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver's representative and the wholesaler's employee making such delivery. Receipts must be serially numbered.~~ ~~(3-31-22)~~

~~**02. Records of Unstamped Deliveries**. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without state tax stamps of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule.~~ ~~(3-31-22)~~

~~**014. SHIPMENTS DELIVERED ON INDIAN RESERVATIONS (RULE 014).**~~

~~**01. Shipments Without Idaho Stamps**. Cigarette wholesalers may deliver cigarettes which do not have Idaho stamps affixed to Idaho Indian reservations when:~~ ~~(3-31-22)~~

~~a. The purchaser is an enrolled member of an Idaho Indian tribe. (3-31-22)~~

~~b. The purchaser is a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe. (3-31-22)~~

~~c. The purchaser is a business enterprise wholly owned and operated by an Idaho Indian tribe. (3-31-22)~~

~~02. Reservation Means Lands Which Are: (3-31-22)~~

~~a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; or established by formal decision of the Executive Branch of the United States or; (3-31-22)~~

~~b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 014.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (3-31-22)~~

~~03. Sales of Cigarettes to Non-Indians Within Reservation Boundaries. Sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must have Idaho cigarette stamps affixed. (3-31-22)~~

~~04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell cigarettes upon which Idaho cigarette stamps have not been affixed. (3-31-22)~~

**013. -- 014. (RESERVED)**

**015. STAMP~~S SOURCE, AMOUNT, AND LIMITATIONS (RULE 015)~~ INVENTORY.**
Sections 63-2510, 63-2510A, Idaho Code

**01. Obtaining Stamps**. Cigarette stamps may only be obtained from the Boise office of the Tax Commission. Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Tax Commission to a wholesaler until clear and convincing evidence is received by the Tax Commission that the return has been filed and the tax has been paid. ~~(3-31-22)~~( )

**02. Unused Stamp Inventory**. ~~Wholesalers~~ A wholesaler may not hold an inventory of unused Idaho cigarette stamps~~, the face value of which exceeds the amount~~ exceeding the face value of their bond. ~~Where~~ If no bond is required a, wholesaler's ~~may not hold an~~ inventory of unused Idaho cigarette stamps~~, the face value of which exceeds~~ cannot exceed two (2) times the wholesaler's average monthly tax liability. ~~(3-31-22)~~( )

**03. ~~Filing and Paying Timely~~Repayment of Allowance**. ~~Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Tax Commission to a wholesaler until clear and convincing evidence is received by the Tax Commission that the return has been filed or the tax has been paid~~ The Tax Commission will reduce all credit or refund claims for stamps affixed to packages of cigarettes by the discount for affixing stamps. ~~(3-31-22)~~( )

**04. Physical Security**. ~~Wholesalers are~~ A wholesaler is responsible for the face value of all stamps received from the Tax Commission~~. Wholesalers must~~ and for providing provide physical security for the stamps in ~~their~~ the wholesaler's possession. ~~(3-31-22)~~( )

**05. Unusable Stamps**. Stamps that are unused, unfit, or damaged may be returned to the Tax Commission. If stamps cannot be returned to the Tax Commission, the wholesaler will submit a request for stamp destruction on a Tax Commission prescribed form. Destruction of stamps cannot take place without approval from the Tax Commission. The wholesaler may make the adjustment on the next monthly tax return, provided the approval documentation is attached to the return. ( )

**016. WHOLESALER'S CREDIT OR REFUND CLAIMS ~~FOR UNMARKETABLE STAMPS (RULE 016)~~.**
Sections, 62-2510, 63-2559, Idaho Code

**01. ~~Destroyed Stamps~~Stamped Cigarette Tax Credits or Refunds**. ~~On and after July 1, 1989, stamps~~ Stamps affixed to cigarettes destroyed by the manufacturer or wholesaler as a result of ~~the return of stale or otherwise unmarketable~~ cigarettes being unmarked may be redeemed by the wholesaler for credit against future tax due if:
~~(3-31-22)~~( )

**a.** ~~The manufacturer provides an affidavit to the Tax Commission indicating that said stamped cigarettes were received from an Idaho licensed wholesaler and detailing the number and package type received~~The wholesaler provides an affidavit or returned goods receipt from the manufacturer detailing the number of packages, package type, and date the stamped cigarettes were returned. The returned goods receipt will include a bill of lading.
~~(3-31-22)~~( )

**b.** ~~The wholesaler provides to the Tax Commission a returned goods receipt obtained from the manufacturer's representative verifying the number of packages, the package type, and the date the cigarettes were returned and a bill of lading traceable to the returned goods receipt. The credit must be claimed on the wholesaler's cigarette tax return and all required documentation must be attached~~The wholesaler submits a request for stamped cigarette destruction to the Tax Commission in writing at least ten (10) working days prior to the scheduled destruction. The notice has to include a complete description of the number of packages, package type, date and time, and manner the stamped cigarettes will be destroyed. All requests have to be approved by the Tax Commission prior to destruction.
~~(3-31-22)~~( )

**02. ~~Stale and Unmarketable Cigarettes~~Tobacco Products Tax Credits and Refunds**. ~~When stamps are to be destroyed by a wholesaler as a result of stale or otherwise unmarketable cigarettes that cannot be returned to the manufacturer, a credit will be allowed against future tax only if~~ Credit or refund claims can be made for unmarketable tobacco products using the following methods:
~~(3-31-22)~~( )

**a.** ~~The wholesaler notifies the Tax Commission in writing at least ten (10) working days prior to destruction. The notice must include a complete description of the number of packages, the package type, and the time and manner the cigarettes and stamps will be destroyed~~Records are provided documenting the return of tobacco products to the manufacturer.
~~(3-31-22)~~( )

**b.** ~~The Tax Commission reserves the right to observe the destruction of all cigarette stamps and further reserves the right to delay the destruction until such time as a mutual appointment can be arranged for witnessing such destruction~~The distributor destroys tobacco products after submitting a destruction request form to the Tax Commission. Tobacco products can be destroyed in a manner authorized by the Tax Commission after receiving approval.
~~(3-31-22)~~( )

~~**03. Unused, Unfit or Damaged Stamps**. Stamps that are unused, unfit, or damaged may be returned to the Tax Commission by the wholesaler for credit.~~
~~(3-31-22)~~

~~**04. Manufacturers Removed From Directory**. It is unlawful for a wholesaler to affix stamps to a package of cigarettes manufactured by a manufacturer or belonging to a brand family not included in the directory of certified manufacturers and brands published by the Idaho Attorney General. See Section 39-8403, Idaho Code. It is possible for a wholesaler to affix stamps to cigarettes manufactured by a manufacturer that is later removed from the directory. The cigarettes would then become unmarketable. In such a case a wholesaler may apply for a credit by following the procedures described in Subsection 016.02 of this rule. No credit will be allowed if the cigarettes are purchased after the manufacturer or brand family has been removed from the directory.~~
~~(3-31-22)~~

~~**05. Credits and Refund**. All credits and refunds of cigarette tax will be reduced by the amount of the compensation provided for by Section 63-2509, Idaho Code.~~
~~(3-31-22)~~

~~**017. SECURITY FOR TAX REQUIRED (RULE 017).**~~
~~Sections 63-2510A, Idaho Code~~

**01.** **Security for Payment of Taxes**. Every wholesaler liable for payment of cigarette taxes provided by Chapter 25, Title 63, Idaho Code, will always have in effect and on file with the Tax Commission security for payment of the excise tax. The security will be in the form and amount acceptable to the Tax Commission, will be payable to the Tax Commission, and will be conditioned upon remittance of taxes imposed on cigarettes by this state for which such wholesaler will be liable, including any penalty and interest. (3-31-22)

**a.** The amount of the security will be the greater of two (2) times the amount of the tax due on an average monthly cigarette tax return, using the previous twelve (12) month period as a base or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received. (3-31-22)

**b.** If a wholesaler wishes to hold an inventory of unused Idaho cigarette stamps in excess of the limitations set by Rule 015 of these rules, the wholesaler must increase the amount of the security on file with the Tax Commission accordingly, or pay a deposit to the Tax Commission for future taxes due which exceed the limitations. (3-31-22)

**c.** Example: A wholesaler has an average monthly tax liability of two thousand dollars ($2,000). The wholesaler is required by the Tax Commission to post a security in the amount of four thousand dollars ($4,000). The wholesaler wishes to hold an unused Idaho cigarette stamp inventory of ten thousand eight hundred dollars ($10,800). The wholesaler must increase the amount of the security on file with the Tax Commission by six thousand eight hundred dollars ($6,800), or pay a deposit of six thousand eight hundred dollars ($6,800) to be applied to future tax due to the Tax Commission. (3-31-22)

**02.** **Reviewing Security on File**. The Tax Commission will review the amount of security on file periodically, but no less than annually, and may increase or decrease the amount of the required security in accordance with the increase or decrease of the wholesaler's average monthly tax liability. (3-31-22)

**03.** **New Wholesaler Application**. When a new wholesaler applies for a cigarette wholesaler's permit, as provided by Section 63-2503, Idaho Code, the security required will be determined as follows: (3-31-22)

**a.** If a cigarette tax reporting history is available from a previous ownership of the business, the new wholesaler will furnish security based on the most recent twelve (12) month history of the prior ownership. (3-31-22)

**b.** If there is no cigarette tax reporting history available from a previous ownership of the business, the new wholesaler will furnish security in the amount of an estimated two (2) month tax liability of the new business, or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received, whichever is greater. The estimate will be prepared by the new wholesaler and will be subject to review and approval by the Tax Commission. (3-31-22)

**04.** **Types of Security**. A person required to provide security must use the forms of security allowed by Tax Commission Administration and Enforcement Rule 600. (3-31-22)

**05.** **Taxpayer Petition for Release from Security Requirements**. A security will be required in all instances unless the Tax Commission, upon petition by the taxpayer, determines that a security is not required. (3-31-22)

**a.** The following conditions must be met before the Tax Commission will release a taxpayer from the posting of a security: The taxpayer has filed all cigarette tax returns including supplemental schedules on a timely basis for a period of not less than twelve (12) months, and the taxpayer has paid all cigarette tax due on a timely basis for a period of not less than twelve (12) months. (3-31-22)

**b.** Upon written petition from the taxpayer, the Tax Commission will review the filing record of the taxpayer and, if determined necessary, examine their books and records within sixty (60) days. The Tax Commission will advise the taxpayer of its determination no later than ninety (90) days from the date of receipt of the taxpayer's petition. (3-31-22)

**c.** If a petition for release of security is denied, notice will be mailed to the taxpayer by certified mail. The notice will include the reasons for the Tax Commission's determination. If the taxpayer wishes to seek a

redetermination of the decision, they must file a petition for redetermination in the manner set forth in Section 63-3045, Idaho Code. The petition for redetermination must be filed no later than thirty (30) days from the date on which the notice of determination is mailed to or served upon the claimant. (3-31-22)

**06. Failure to File Timely After Release from Security**. If a taxpayer has been released from security requirements and fails to file a cigarette tax return or fails to pay the cigarette tax due by the due date specified in Chapter 25, Title 63, Idaho Code, the Tax Commission may immediately make demand for the tax return or payment, and demand that a security be posted. (3-31-22)

**a.** The demand will be in writing and will be personally served on the taxpayer or mailed to him by certified mail. (3-31-22)

**b.** If the taxpayer wishes to petition for redetermination of the demand, they must do so in writing within ten (10) days of the date upon which the demand is mailed to or served on him. (3-31-22)

**c.** Failure to file a petition for redetermination will cause the demand to become final and a jeopardy assessment will be issued. Immediate collection actions will be taken which may include seizing all Idaho cigarette stamps held by the taxpayer, filing liens of record, seizing all cigarettes held in the inventory of the taxpayer, revoking the taxpayer's cigarette permit, or notifying the manufacturers of the cigarettes held in the taxpayer's inventory of all actions taken. (3-31-22)

**018. CIGARETTE TAX RETURN (RULE 018).**
Section 63-2510, Idaho Code

**01. Cigarette Tax Return**. All cigarette wholesalers required to affix Idaho stamps to cigarettes, or who make sales to U.S. military or Indians on reservations, or who have a stamping warehouse or business located within this state and sell cigarettes in interstate commerce are required to file an Idaho cigarette tax return. (3-31-22)

**02. Filing Returns**. The return will be in a form prescribed by the Tax Commission and will be filed on a monthly basis. (3-31-22)

**03. Due Date**. The return will be filed by the wholesaler on or before the twentieth day of the month immediately following the month to which the return applies. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the return will be due on the next following day which is not a Saturday, Sunday, or legal holiday. The return must account for and tax must be paid on all cigarette stamps affixed during the month to which the return applies. (3-31-22)

**04. Requirements of a Valid Return**. A tax return or other documents required to be filed in accordance with Section 63-2510, Idaho Code, and this rule must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3030A, 63-3046, and 63-3075, Idaho Code, and rules thereunder. (3-31-22)

**a.** All cigarette tax return forms must be completed and copies of all pertinent supporting schedules or computations must be attached. The results of supporting computations must be carried forward to applicable lines on the cigarette tax return form. (3-31-22)

**b.** All cigarette tax returns or other documents filed by the taxpayer must include their cigarette wholesaler's permit number and Federal Taxpayer Identification Number in the space provided. (3-31-22)

**c.** A cigarette return that does not provide sufficient information to compute a tax liability does not constitute a valid cigarette tax return. (3-31-22)

**d.** Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required: it must be on the proper form, as prescribed by the Tax Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and

it must show an honest and genuine effort to satisfy the requirement of the law. (3-31-22)

**05. Failure to File a Return**. Any wholesaler required to file a return who fails to file such return will be in violation of this regulation and will be required to appear before the Tax Commission to show cause as to why their permit should not be revoked. See Section 63-2503, Idaho Code. (3-31-22)

**06. Implementation of Tobacco Master Settlement Agreement**. Chapter 78, Title 39, Idaho Code, enacted as part of the settlement agreement with several cigarette manufacturers requires nonparticipating manufacturers to place certain funds in escrow accounts. The Tax Commission is required to ascertain the amount of state excise tax paid on cigarettes manufactured by manufacturers that are not participating in the Master Settlement Agreement. Therefore, as part of the cigarette tax return, cigarette wholesalers must report separately the number of Idaho cigarette stamps affixed to products manufactured by manufacturers that are not participating in the Master Settlement Agreement. (3-31-22)

**07. Wholesale Sales of Stamped Cigarettes**. Every wholesaler who imports unstamped cigarettes into this state must file a return, however; a cigarette wholesaler who buys only stamped cigarettes for resale is not required to file a return. (3-31-22)

## 019. TOBACCO MANUFACTURERS AND DISTRIBUTORS (RULE 019).

**01. Shipments to Retailers/Distributors**. In the case where a person who is not a registered Idaho tobacco dealer ships tobacco products to a person who is both a retailer, as defined in Section 63-2551(5), Idaho Code, and a distributor, as defined in Section 63-2551(3)(b), Idaho Code, and Rule 010 of these rules, the shipper will be considered a manufacturer for purposes of all shipments of products intended for blending and/or repackaging and the receiver will be primarily liable for the tax. In the case where shipments are made to a person who is both a retailer and a distributor and products are prepackaged for retail sale, the shipper will be considered a distributor, Section 63-2551(3)(c), Idaho Code, and held primarily liable for the tax. (3-31-22)

**02. Nontaxed Tobacco Purchases from Outside the State**. Any person purchasing tobacco products from without this state and making any type of sale, as defined in Section 63-2551(6), Idaho Code, will be deemed to be the distributor and held liable for the unpaid tax on said tobacco products not otherwise taxed. (3-31-22)

**03. Determining Wholesale Sales Price**. Any time a distributor makes a purchase of tobacco products from a manufacturer or any person upon which the tax has not been paid, and the documents pertaining to that purchase do not clearly indicate the wholesale sales price, as defined by Section 63-2551(7), Idaho Code, wholesale sales price will be determined to be the purchase price of that product, or the wholesale sales price of that same or a like product in the course of normal commerce whichever is greater. It is the responsibility of the distributor to provide the accuracy of the wholesale sales price of any product it may be held liable for. (3-31-22)

**a.** Separately Stated Nontaxable Charges. Separately stated nontaxable charges for shipping, handling, transportation, and delivery may not be used to avoid tax on the wholesale sales price of tobacco products. If the allocation of the wholesale sales price is unreasonable, the Tax Commission may adjust it. (3-31-22)

**b.** An out of state distributor with nexus in the state of Idaho must use the same method in determining "wholesale sales price" as other distributors that distribute tobacco products in Idaho. If an out of state distributor without nexus in Idaho applies for and receives a tobacco tax permit voluntarily, that distributor must also use the same method in determining "wholesale sales price" as other distributors that distribute tobacco products in Idaho. (3-31-22)

i. Example 1. An out of state tobacco manufacturer manufactures tobacco and acts as its own distributor. The manufacturer distributes its products to Idaho distributors, retailers, and end users. In this case, the manufacturer is acting as both manufacturer and distributor. The wholesale sales price will be the price at which it sells to the Idaho distributor, retailer or end user. (3-31-22)

ii. Example 2: An out-of-state importer (Company X) purchases tobacco products. Company X sells its product to its sister company (Company Y) which then acts as the distributor. The dollar amount for which Company X sells its product to Company Y is not disclosed. Company Y then ships the product into Idaho to Idaho

~~distributors and retailers. In this case, the purchase price from the manufacturer to Company X is unknown. Additionally, there are no records provided to show the sales price between Company X and Company Y. There are records showing the price between Company Y and the Idaho distributors and retailers. Under this subsection, where the wholesale sales price is unknown, the wholesale sales price will be the greater of the purchase price of that product or the wholesale sales price of that same or a like product in the course of normal commerce. The "purchase price of the product" is the price the Idaho distributor or retailer actually paid Company Y to purchase the product. The wholesale sales price of the same or similar product in the normal course of commerce could be interpreted as the price a manufacturer would sell the same or similar product to a distributor.~~ ~~(3-31-22)~~

~~iii. Example 3: An out-of-state distributor buys tobacco products from a manufacturer that is not a related party as defined in IRC Section 267. The distributor ships its products to Idaho distributors and retailers. If the wholesale sales price (the price paid by the distributor to the manufacturer for the product) is known, then that is the wholesale sales price. If the distributor does not know the wholesale sales price paid to the manufacturer, then this subsection requires the wholesale sales price to be the price paid by the Idaho distributors and retailers for the product OR the wholesale sales price of the same or similar products, whichever is greater.~~ ~~(3-31-22)~~

**~~020. TOBACCO TAX RETURN (RULE 020).~~**

**~~01. Tobacco Tax Return~~**. ~~All tobacco distributors who make wholesale purchases are required to file a tobacco products tax return.~~ ~~(3-31-22)~~

**~~02. Timing of Filing Return~~**. ~~The return will be in a form prescribed by the Tax Commission and will be filed on a monthly basis.~~ ~~(3-31-22)~~

**~~03. Due Date of Return~~**. ~~The return will be filed by the distributor on or before the twentieth (20th) day of the month immediately following the month to which the return applies. If the twentieth (20th) day falls on a Saturday, Sunday, or legal holiday, the return will be due on the next following day which is not a Saturday, Sunday, or a legal holiday.~~ ~~(3-31-22)~~

**~~04. Requirements of a Valid Return~~**. ~~A tax return or other document required to be filed in accordance with Section 63-2552, Idaho Code, and these rules must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3046 and 63-3075, Idaho Code, and related rules.~~ ~~(3-31-22)~~

**~~a.~~** ~~The tobacco products tax return form must be completed and copies of all pertinent supporting documentation must be attached. The results of supporting documentation must be carried forward to applicable lines on the tobacco products return form.~~ ~~(3-31-22)~~

**~~b.~~** ~~All tobacco products tax returns or other documents filed by the taxpayer must include their tobacco products tax permit number and Federal Taxpayer Identification Number in the space provided.~~ ~~(3-31-22)~~

**~~c.~~** ~~A tobacco products tax return that does not provide sufficient information to compute a tax liability does not constitute a valid return.~~ ~~(3-31-22)~~

**~~d.~~** ~~Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required, it must be on the proper form, as prescribed by the Tax Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law.~~ ~~(3-31-22)~~

**017. -- 020. (RESERVED)**

**021. ~~SALES TO OTHER IDAHO DISTRIBUTORS (RULE 021)~~MANDATORY RECORDS.**

**01. ~~Sales for Eventual Resale~~In General**. ~~When a registered Idaho tobacco products distributor sells tobacco products other than cigarettes to other tobacco products distributors located within this state the duty to pay~~

~~the tax is on the distributor who first causes the tobacco products to be shipped to Idaho.~~ Every person liable for payment of taxes on cigarettes or tobacco products needs to keep and preserve the following records in date order: ~~(3-31-22)~~( )

**a.** A daily record of all cash and credit sales including invoices, receipts, journals, and other related records. ( )

**b.** A record of the amount of all merchandise purchased, including all bills of lading, invoice, sales receipts, bank statements, canceled checks, and copies of purchase orders. ( )

**c.** Supporting documents for all deductions and exemptions allowed by law or claimed on a tax return. ( )

**d.** True and complete physical counts of the cigarette and tobacco products inventory taken at the end of each reporting period. ( )

**e.** True and complete records of breakage and spoilage claimed as a deduction from inventory. ( )

**f.** Other documents used in preparing or supporting the accuracy of the return. ( )

**02. ~~First Receiver~~Records Retention**. ~~The first receiver, the tobacco products distributor who first causes the tobacco products to be shipped to Idaho will report the tax on their tobacco products tax return for the month in which the sales occur. The sales invoice to the second receiver must clearly indicate that the first receiver has paid the tax~~ If a taxpayer appeals an assessment, all records need to be kept until final disposition of the appeal. ~~(3-31-22)~~( )

~~**03. Subsequent Receiver**. Any subsequent receiver will not be required to pay the tax as long as they maintains records showing that the first receiver has paid the tax. (3-31-22)~~

~~**022. EXEMPTIONS (RULE 022).**~~

~~**01. Credit for Taxes Paid**. Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are: (3-31-22)~~

~~**a.** Sold and delivered to retailers or distributors at locations outside the state of Idaho; (3-31-22)~~

~~**b.** Sold and delivered to the United States Government on U.S. Military reservations located within Idaho; (3-31-22)~~

~~**c.** Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe. (3-31-22)~~

~~**02. Documentation**. Distributors must maintain adequate records to show the validity of credits claimed under this subsection, including delivery records and invoices. If the distributor is selling to an enrolled member of an Indian tribe they should keep a copy of the purchaser's tribal identification card in their files. If they are selling to a tribally owned entity, they should keep a certificate of tribal ownership or some other form of clear and convincing evidence that the purchaser is a business wholly owned and operated by an Idaho Indian tribe. (3-31-22)~~

~~**03. Indian Reservations**. Indian reservation means lands which are: (3-31-22)~~

~~**a.** Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; established by formal decision of the Executive Branch of the United States; or (3-31-22)~~

~~**b.** Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 022.03.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (3-31-22)~~

~~**04. Non-Indian Enterprises**. Tobacco distributors may not claim a credit for taxes paid on tobacco products sold to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation. (3-31-22)~~

~~**05. Non-Indian Retailers**. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell tobacco products upon which tobacco products tax has not been paid. (3-31-22)~~

~~**023. CREDIT FOR RETURNED TOBACCO PRODUCTS (RULE 023).**~~

~~**01. Credit Allowed**. When tobacco products have been returned to the manufacturer, credit will be allowed against future tax only if: (3-31-22)~~

~~**a.** The distributor has an itemized credit memorandum or credit invoice from the manufacturer; and (3-31-22)~~

~~**b.** The distributor has a bill of lading or manufacturer's credit receipt which can be traced to the credit memorandum and which verifies the amount shipped to the manufacturer. (3-31-22)~~

~~**02. Notice of Returned Tobacco Products**. The Tax Commission reserves the right to require the distributor to notify the Tax Commission in writing at least five (5) working days prior to shipment of any tobacco products returned to the manufacturer. If required, the notice must include a complete description of the item returned, the quantity to be returned, and the wholesale sales price of the item, and the date items will be shipped. (3-31-22)~~

~~**03. Verifying Shipments**. The Tax Commission reserves the right to verify the shipment of all tobacco products returned to the manufacturer and further reserves the right to delay the shipment until such time as a mutual appointment can be arranged for verifying such shipment. (3-31-22)~~

~~**024. CREDIT FOR DESTRUCTION OF TOBACCO PRODUCTS (RULE 024).**~~

~~**01. Destroyed Tobacco**. When tobacco products are to be destroyed by a distributor, credit will be allowed against future tax only if: (3-31-22)~~

~~**a.** The distributor notifies the Tax Commission in writing at least ten (10) working days prior to destruction. The notice must include a complete description of the items to be destroyed, the quantity of each item, the wholesale sales price of each item and the time and manner the items will be destroyed; and (3-31-22)~~

~~**b.** The distributor has a verifiable credit memorandum from the manufacturer. (3-31-22)~~

~~**02. Observing Destruction**. The Tax Commission reserves the right to observe the destruction of all tobacco products and further reserves the right to delay the destruction until such time as a mutual appointment can be arranged for witnessing such destruction. (3-31-22)~~

**02~~5~~2. -- 999. (RESERVED)**

# IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

## 36.01.01 – IDAHO BOARD OF TAX APPEALS RULES

## DOCKET NO. 36-0101-2301

## NOTICE OF REJECTION – AGENCY FILING OF FINAL RULE

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on the pending rule promulgated under Docket No. 36-0101-2301. Only those sections of the rule effected by House Concurrent Resolution (HCR) 47 are being reprinted here as a final rule.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement regarding the partial rejection:

Pursuant to **HCR 47**, IDAPA 36.01.01, "Idaho Board of Tax Appeals Rules," the amendments to Sections 020, 021, and 036, only, adopted as a pending rule under Docket Number **36-0101-2301**, are not consistent with legislative intent because certain sections being amended should affirm to citizens that all hearings will be provided in a fair, speedy, and just way and are rejected in part and not approved and thereby pursuant to Section 67-5291, Idaho Code, shall expire upon adjournment *sine die* of the 2024 legislative session and be null, void, and of no force and effect. Only Sections 020, 021, and 036 are reprinted here as affected by HCR 47 following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice, contact Brad Hunt (208) 854-3096.

DATED this 4th day of September, 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

**The pending rule adopted under this docket was partially rejected by HCR 47.
The following rule text is the final rule and includes the rejected
pending rule text shown here *recodified as italicized*.**

### 020. PROCEDURE GOVERNED *(RULE 20)*.

**01. Procedure**. These rules govern all practice and procedure before the Board. Except as provided in Rules 800 through 860, these rules are affirmatively promulgated to supersede IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General". (4-6-23)

***02. Purpose**. The purpose for the establishment of the Idaho Board of Tax Appeals is to provide a fully independent, fair, and less expensive opportunity for taxpayers and other parties to appeal from most tax related decisions of county boards of equalization and the State Tax Commission. (4-6-23)*

***021. LIBERAL CONSTRUCTION (RULE 21).***
*These rules will be liberally construed to secure just, speedy, and economical determination of all issues presented to the Board.* *(4-6-23)*

***(BREAK IN CONTINUITY OF SECTIONS)***

**036. ENFORCEMENT *(RULE 36)*.**
*The Board and each party to an appeal are responsible for the efficient, just, and speedy conduct of the formal hearing and other proceedings before the Board.* Board members or the assigned hearing officer may impose sanctions on a party for delays, the failure to comply with a subpoena or discovery order, for discovery procedure abuses, and for any other matter regarding conduct of the appeal. Board sanctions include, but are not limited to, dismissal of an appeal or the granting of default judgment. *(4-6-23)*

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

## DOCKET NO. 58-0101-2401

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act (CAA) programs.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, a public hearing has been scheduled and will be held as follows:

**Tuesday, October 8, 2024, 4:00 p.m. MT**

**ATTEND IN PERSON OR VIA MICROSOFT TEAMS**

**DEQ State Office**
**Conference Center**
**1410 N. Hilton**
**Boise, ID 83706**

**The Teams meeting link is available at:**
**https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2401/**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements, contact the undersigned.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the CAA. This proposed rule updates federal regulations incorporated by reference with the July 1, 2024 Code of Federal Regulations (CFR) effective date. The July 1, 2024 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2024.

This rulemaking removes the Section 332 provisions for "Emergency as an Affirmative Defense Regarding Excess Emissions." On July 12, 2023, the EPA removed the emergency affirmative defense provisions from the CAA operating permit program regulations. DEQ is removing this section from our rules to comply with this action.

This rulemaking also adds the four following clarifying definitions: "Toxic Air Pollutant Non-carcinogenic Increments" added to Section 585, "Toxic Air Pollutant Carcinogenic Increments" added to Section 586, "CAS" added to Sections 585 and 586 Notes, and "Open Burning" added to Section 600. During negotiated rulemaking for Docket No. 58-0101-2101, these definitions were struck from Section 006 with the intention of moving them to Sections 585, 586, and 600. While the other definitions were moved to their respective sections, these definitions were inadvertently overlooked. DEQ is now adding these definitions as originally intended.

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 adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the

2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution. DEQ will submit the final rule to EPA.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2401/.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Aislinn Johns at Aislinn.johns@deq.idaho.gov or (208) 373-0185.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 8, 2024. Submit comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Aislinn.johns@deq.idaho.gov

Dated this 4th day of September, 2024.

Janeena White
Senior Operations Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0502
janeena.white@deq.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

### 107. INCORPORATIONS BY REFERENCE.

**01. Requirements for Preparation, Adoption, and Submittal of Implementation Plans**. 40 CFR Part 51 revised as of July 1, ~~2023~~2024. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. ~~(7-1-24)~~( )

**02. National Primary and Secondary Ambient Air Quality Standards**. 40 CFR Part 50, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**03. Approval and Promulgation of Implementation Plans**. 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**04. Ambient Air Monitoring Reference and Equivalent Methods**. 40 CFR Part 53, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**05. Ambient Air Quality Surveillance**. 40 CFR Part 58, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**06. Standards of Performance for New Stationary Sources**. 40 CFR Part 60, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**07. National Emission Standards for Hazardous Air Pollutants**. 40 CFR Part 61, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**08. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008**. 40 CFR Part 62, Subpart HHH, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**09. Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014**. 40 CFR Part 62, Subpart OOO, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**10. National Emission Standards for Hazardous Air Pollutants for Source Categories**. 40 CFR Part 63, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**11. Compliance Assurance Monitoring**. 40 CFR Part 64, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**12. State Operating Permit Programs**. 40 CFR Part 70, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**13. Permits**. 40 CFR Part 72, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**14. Sulfur Dioxide Allowance System**. 40 CFR Part 73, revised as of July 1, ~~2023~~2024. ~~(7-1-24)~~( )

**15. Protection of Stratospheric Ozone**. 40 CFR Part 82, revised as of July 1, ~~2023~~2024.

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

**16.** **Clean Air Act**. 42 U.S.C. Sections 7401 through 7671g (1997). (7-1-24)

*(BREAK IN CONTINUITY OF SECTIONS)*

~~**332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.**~~

~~**01. General**. An emergency, defined as any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. An emergency will not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.~~ ~~(3-28-23)~~

~~**02. Demonstration of Emergency**. The affirmative defense of emergency must be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~ ~~(3-28-23)~~

~~**a.** An emergency occurred and that the permittee can identify the cause(s) of the emergency;~~ ~~(3-28-23)~~

~~**b.** The permitted facility was at the time being properly operated;~~ ~~(3-28-23)~~

~~**c.** During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~ ~~(3-28-23)~~

~~**d.** The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q.~~ ~~(3-28-23)~~

~~**03. Burden of Proof**. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~ ~~(3-28-23)~~

~~**04. Applicability**. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement.~~ ~~(3-28-23)~~

~~Break~~

**33~~3~~2. -- 334. (RESERVED)**

*(BREAK IN CONTINUITY OF SECTIONS)*

**585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.**

**01. Toxic Air Pollutant Non-carcinogenic Increments**. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. ( )

**02. Non-carcinogens Table**. The screening emissions levels (EL) and acceptable ambient

concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. ~~(3-28-23)~~( )

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 60-35-5 | Acetamide (NY) | -- | 0.002 | 0.0003 |
| 64-19-7 | Acetic acid | 25 | 1.67 | 1.25 |
| 108-24-7 | Acetic anhydride | 20 | 1.33 | 1 |
| 67-64-1 | Acetone | 1780 | 119 | 89 |
| 75-05-8 | Acetonitrile | 67 | 4.47 | 3.35 |
| 540-59-0 | Acetylene dichloride, See 1,2-Dichloroethylene | | | |
| 79-27-6 | Acetylene tetrabromide | 15 | 1 | .75 |
| 107-02-8 | Acrolein | 0.25 | 0.017 | 0.0125 |
| 79-10-7 | Acrylic acid | 30 | 2 | 1.5 |
| 107-18-6 | Allyl alcohol | 5 | 0.333 | .25 |
| 106-92-3 | Allyl glycidyl ether | 22 | 1.47 | 1.1 |
| 2179-59-1 | Allyl propyl disulfide | 12 | 0.8 | 0.6 |
| 7429-90-5 | Aluminum Including: | | | |
| NA | Metal & Oxide | 10 | 0.667 | 0.5 |
| NA | Pyro powders | 5 | 0.333 | 0.25 |
| NA | Soluble salts | 2 | 0.133 | 0.10 |
| NA | Alkyls not otherwise classified | 2 | 0.133 | 0.10 |
| 141-43-5 | 2-Aminoethanol, See Ethanolamine | | | |
| 504-29-0 | 2-Aminopyridine | 2 | 0.133 | 0.10 |
| 7664-41-7 | Ammonia | 18 | 1.2 | 0.9 |
| 12125-02-9 | Ammonium chloride fume | 10 | 0.667 | 0.5 |
| 3825-26-1 | Ammonium perfluo-octanoate | 0.1 | 0.007 | 0.05 |
| 7773-06-0 | Ammonium sulfamate | 10 | 0.667 | 0.5 |
| 628-63-7 | n-Amyl acetate | 530 | 35.3 | 26.5 |
| 626-38-0 | Sec-Amyl acetate | 665 | 44.3 | 33.25 |
| 7440-36-0 | Antimony & compounds, as Sb (handling & use) | 0.5 | 0.033 | 0.025 |
| 86-88-4 | ANTU | 0.3 | 0.02 | 0.015 |
| 7784-42-1 | Arsine | 0.2 | 0.013 | 0.01 |
| 86-50-0 | Azinphos-methyl | 0.2 | 0.013 | 0.01 |
| 7440-39-3 | Barium, soluble compounds, as Ba | 0.5 | 0.033 | 0.025 |
| 17804-35-2 | Benomyl | 10 | 0.67 | 0.5 |
| 7106-51-4 | p-Benzoquinone, See Quinone | | | |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 94-36-0 | Benzoyl peroxide | 5 | 0.333 | 0.25 |
| 92-52-4 | Biphenyl | 1.5 | 0.1 | 0.075 |
| 1304-82-1 | Bismuth telluride undoped | 10 | 0.667 | 0.05 |
| NA | Bismuth telluride if selenium doped | 5 | 0.333 | 0.25 |
| 1303-96-4 | Borates, tetra odium salts - Including: | | | |
| NA | Anhydrous | 1 | 0.067 | 0.05 |
| NA | Decahydrate | 5 | 0.333 | 0.25 |
| NA | Pentahydrate | 1 | 0.067 | 0.05 |
| 1303-86-2 | Boron oxide | 10 | 0.667 | 0.5 |
| 10294-33-4 | Boron tribromide | 10 | 0.667 | 0.5 |
| 7637-07-2 | Boron trifluoride | 3 | 0.2 | 0.25 |
| 314-40-9 | Bromacil | 10 | 0.667 | 0.5 |
| 7726-95-6 | Bromine | 0.7 | 0.047 | 0.035 |
| 7789-30-2 | Bromine penta-fluoride | 0.7 | 0.047 | 0.035 |
| 75-25-2 | Bromoform | 5 | 0.333 | 0.25 |
| 109-79-5 | Butanethiol, see Butyl mercaptan | | | |
| 78-93-3 | 2-Butanone, see Methyl ethyl ketone | | | |
| 112-07-2 | 2-butoxyethyl acetate | --- | 8.33 | 1.25 |
| 111-76-2 | 2-Butoxyethanol (EGBG) | 120 | 8 | 6 |
| 123-86-4 | n-Butyl acetate | 710 | 47.3 | 35.5 |
| 105-46-4 | sec-Butyl acetate | 950 | 63.3 | 47.5 |
| 540-88-5 | tert-Butyl acetate | 950 | 63.3 | 47.5 |
| 141-32-2 | Butyl acrylate | 55 | 3.67 | 2.75 |
| 71-36-3 | n-Butyl alcohol | 150 | 10 | 7.5 |
| 78-92-2 | Sec-Butyl alcohol | 305 | 20.3 | 15.25 |
| 75-65-0 | tert-Butyl alcohol | 300 | 20 | 15 |
| 109-73-9 | Butylamine | 15 | 1 | .75 |
| 124-17-4 | Butyl carbitol acetate (ID) | --- | 0.846 | .625 |
| 1189-85-1 | tert-Butyl chromate, as CrO3 | 0.1 | 0.007 | .005 |
| 2426-08-6 | n-Butyl glycidyl ether | 135 | 9 | 6.75 |
| 138-22-7 | n-Butyl lactate | 25 | 1.67 | 1.25 |
| 109-79-5 | Butyl mercaptan | 1.8 | 0.12 | 0.09 |
| 89-72-5 | o-sec-Butylphenol | 30 | 2 | 1.5 |
| 98-51-1 | p-tert-Butyltoluene | 60 | 4 | 3 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 1317-65-3 | Calcium carbonate | 10 | 0.667 | 0.5 |
| 156-62-7 | Calcium cyanamide | 0.5 | 0.033 | 0.025 |
| 1305-62-0 | Calcium hydroxide | 5 | 0.333 | 0.25 |
| 1305-78-8 | Calcium oxide | 2 | 0.133 | 0.1 |
| 1344-95-2 | Calcium silicate (synthetic) | 10 | 0.667 | 0.5 |
| 13397-24-5 | Calcium sulfate | 10 | 0.667 | 0.5 |
| 76-22-2 | Camphor, synthetic | 12 | 0.8 | 0.6 |
| 105-60-2 | Caprolactam - Including: | | | |
| | Dust | 1 | 0.067 | 0.05 |
| | Vapor | 20 | 1.33 | 1.0 |
| 1333-86-4 | Carbon black | 3.5 | 0.23 | 0.175 |
| 2425-06-1 | Captafol | 0.1 | 0.007 | 0.005 |
| 133-06-2 | Captan | 5 | 0.333 | 0.25 |
| 463-58-1 | Carbonyl sulfide | 0.4 | 0.027 | 0.02 |
| 63-25-2 | Carbaryl | 5 | 0.333 | 0.25 |
| 1563-66-2 | Carbofuran | 0.1 | 0.007 | 0.005 |
| 75-15-0 | Carbon disulfide | 30 | 2 | 1.5 |
| 558-13-4 | Carbon tetrabromide | 1.4 | 0.093 | 0.07 |
| 75-44-5 | Carbonyl chloride, See Phosgene | | | |
| 353-50-4 | Carbonyl fluoride | 5 | 0.333 | 0.25 |
| 120-80-9 | Catechol | 20 | 1.33 | 1.0 |
| 21351-79-1 | Cesium hydroxide | 2 | 0.133 | 0.10 |
| 133-90-4 | Chloramben (PL) | --- | 887 | 133 |
| 8001-35-2 | Chlorinated camphene | 0.5 | 0.0333 | 0.025 |
| 31242-93-0 | Chlorinated diphenyl oxide | 0.5 | 0.033 | 0.025 |
| 7782-50-5 | Chlorine | 3 | 0.2 | 0.15 |
| 10049-04-4 | Chlorine dioxide | 0.3 | 0.02 | 0.015 |
| 7790-91-2 | Chlorine trifluoride (CL) | 0.38 | 0.025 | 0.002 |
| 107-20-0 | Chloroacetaldehyde | 0.32 | 0.021 | 0.015 |
| 78-95-5 | Chloroacetone | 0.38 | 0.0253 | 0.019 |
| 532-27-4 | a-Chloroacetophenone | 0.32 | 0.021 | 0.016 |
| 79-04-9 | Chloroacetyl chloride | 0.2 | 0.013 | 0.01 |
| 108-90-7 | Chlorobenzene | 350 | 23.3 | 17.5 |
| 510-15-6 | Chlorobenzilate (PL1) | --- | 0.047 | 0.035 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 2698-41-1 | O-Chlorobenzylidene malononitrile (CL) | 0.4 | 0.0027 | 0.03 |
| 126-99-8 | 2-Chloro-1,3-butadiene, see B-Chloroprene | | | |
| 107-07-3 | 2-Chloroethanol, see Ethylene chlorohydrin | | | |
| 600-25-9 | 1-Chloro-1-nitro propane | 10 | 0.667 | 0.5 |
| 95-57-8 | 2-Chlorophenol (and all isomers) (ID) | --- | 0.033 | 0.025 |
| 76-06-2 | Chloropicrin | 0.7 | 0.047 | 0.037 |
| 126-99-8 | B-chloroprene | 36 | 2.4 | 1.8 |
| 2039-87-4 | o-Chlorostyrene | 285 | 19 | 14.25 |
| 95-49-8 | o-Chlorotoluene | 250 | 16.7 | 12.5 |
| 1929-82-4 | 2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin | | | |
| 2921-88-2 | Chlorpyrifos | 0.2 | 0.013 | 0.01 |
| 7440-47-3 | Chromium metal - Including: | 0.5 | 0.033 | 0.025 |
| 7440-47-3 | Chromium (II) compounds, as Cr | 0.5 | 0.033 | 0.025 |
| 16065-83-1 | Chromium (III) compounds, as Cr | 0.5 | 0.033 | 0.025 |
| 2971-90-6 | Clopidol | 10 | 0.667 | 0.5 |
| NA | Coal dust (<5% silica) | 2 | 0.133 | 0.1 |
| 10210-68-1 | Cobalt carbonyl as Co | 0.1 | 0.007 | 0.005 |
| 16842-03-8 | Cobalt hydrocarbonyl as Co | 0.1 | 0.007 | 0.005 |
| 7440-48-4 | Cobalt metal, dust, and fume | 0.05 | 0.0033 | 0.0025 |
| 7440-50-8 | Copper: | | | |
| 7440-50-8 | Fume | 0.2 | 0.013 | 0.01 |
| 7440-50-8 | Dusts & mists, as Cu | 1 | 0.067 | 0.05 |
| 95-48-7 | o-Cresol | 22 | 1.47 | 1.1 |
| 108-39-4 | m-Cresol | 22 | 1.47 | 1.1 |
| 106-44-5 | p-Cresol | 22 | 1.47 | 1.1 |
| 1319-77-3 | Cresols/Cresylic Acid (isomers and mixtures) | 22 | 1.47 | 1.1 |
| 123-73-9 | Crotonaldehyde | 5.7 | 0.38 | 0.285 |
| 299-86-5 | Cruformate | 5 | 0.333 | 0.25 |
| 98-82-8 | Cumene | 245 | 16.3 | 12.25 |
| 420-04-2 | Cyanamide | 2 | 0.133 | 0.1 |
| 592-01-8 | Cyanide and compounds as CN | 5 | 0.333 | 0.25 |
| 110-82-7 | Cyclohexane | 1050 | 70 | 52.5 |
| 108-93-0 | Cyclohexanol | 200 | 13.3 | 10 |
| 108-94-1 | Cyclohexanone | 100 | 6.67 | 5 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 110-83-8 | Cyclohexene | 1015 | 67.7 | 50.75 |
| 108-91-8 | Cyclohexylamine | 41 | 2.73 | 2.05 |
| 121-82-4 | Cyclonite | 1.5 | 0.1 | 0.075 |
| 542-92-7 | Cyclopentadiene | 200 | 13.3 | 10 |
| 287-92-3 | Cyclopentane | 1720 | 114.667 | 86 |
| 94-75-7 | 2,4-D | 10 | 0.667 | 0.5 |
| 17702-41-9 | Decaborane | 0.3 | 0.02 | 0.015 |
| 8065-48-3 | Demeton | 0.1 | 0.007 | 0.005 |
| 123-42-2 | Diacetone alcohol | 240 | 16 | 12 |
| 39393-37-8 | Dialkyl phthalate (ID) | --- | 16.4 | 2.46 |
| 107-15-3 | 1,2-Diaminoethane, See Ethylenediamine | | | |
| 333-41-5 | Diazinon | 0.1 | 0.007 | 0.005 |
| 334-88-3 | Diazomethane | 0.34 | 0.023 | 0.017 |
| 19287-45-7 | Diborane | 0.1 | 0.007 | 0.005 |
| 102-81-8 | 2-N-Dibutylamino ethanol | 14 | 0.933 | 0.7 |
| 2528-36-1 | Dibutyl phenyl phosphate | 3.5 | 0.233 | 0.175 |
| 107-66-4 | Dibutyl phosphate | 8.6 | 0.573 | 0.43 |
| 84-74-2 | Dibutyl phthalate | 5 | 0.333 | 0.25 |
| 7572-29-4 | Dichloroacetylene | 0.39 | 0.0026 | 0.0195 |
| 95-50-1 | o-Dichlorobenzene | 300 | 20 | 15 |
| 106-46-7 | 1,4-Dichlorobenzene | 450 | 30 | 22.5 |
| 118-52-5 | 1,3-Dichloro-5, 5-dimethyl hydantoin | 0.2 | 0.013 | 0.025 |
| 75-34-3 | Dichloroethane | 405 | 27 | 20.25 |
| 540-59-0 | 1,2-Dichloroethylene | 790 | 52.7 | 39.5 |
| 111-44-4 | Dichloroethyl ether | 30 | 2 | 1.5 |
| 75-43-4 | Dichlorofluoromethane | 40 | 2.67 | 2 |
| 594-72-9 | 1, l-Dichloro-l-nitroethane | 10 | 0.667 | 0.5 |
| 78-87-5 | 1,2-Dichloropropane, see Propylene dichloride | | | |
| 75-99-0 | 2,2-Dichloropropionic acid | 6 | 0.4 | 0.3 |
| 62-73-7 | Dichlorvos | 1 | 0.067 | 0.05 |
| 141-66-2 | Dicrotophos | 0.25 | 0.017 | 0.125 |
| 77-73-6 | Dicyclopentadiene | 30 | 2 | 1.5 |
| 102-54-5 | Dicyclopentadienyl iron | 10 | 0.667 | 0.5 |
| 111-42-2 | Diethanolamine | 15 | 1 | 0.75 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 109-89-7 | Diethylamine | 30 | 2 | 1.5 |
| 100-37-8 | 2-Diethylamino-ethanol | 50 | 3.33 | 2.5 |
| 111-40-0 | Diethylene triamine | 4 | 0.267 | 0.2 |
| 60-29-7 | Diethyl ether | 1200 | 80 | 60 |
| 96-22-0 | Diethyl Ketone | 705 | 47 | 35.25 |
| 84-66-2 | Diethyl phthalate | 5 | 0.333 | 0.25 |
| 2238-07-5 | Diglycidyl ether (DGE) | 0.53 | 0.035 | 0.0265 |
| 123-31-9 | Dihydroxybenzene, see Hydroquinone | | | |
| 108-83-8 | Diisobutyl ketone | 145 | 9.67 | 7.25 |
| 108-18-9 | Diisopropylamine | 20 | 1.33 | 1 |
| 127-19-5 | Dimethyl acetamide | 35 | 2.33 | 1.75 |
| 124-40-3 | Dimethylamine | 9.2 | 0.613 | 0.46 |
| 60-11-7 | Dimethyl aminoazo-benzene (NY) | --- | 0.002 | 0.0003 |
| 1300-73-8 | Dimethylamino-benzene, see Xylidine | | | |
| 121-69-7 | Dimethylaniline (N,N-Dimethylaniline) | 25 | 1.67 | 1.25 |
| 1330-20-7 | Dimethylbenzene, see Xylene | | | |
| 300-76-5 | Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled | | | |
| 68-12-2 | Dimethylformamide | 30 | 2 | 1.5 |
| 108-83-8 | 2,6-Dimethyl-4-heptanone, see Diisobutyl ketone | | | |
| 131-11-3 | Dimethylphthalate | 5 | 0.333 | 0.25 |
| 148-01-6 | Dinitolmide | 5 | 0.333 | 0.25 |
| 528-29-0 | Dinitrobenzene | 1 | 0.067 | 0.05 |
| 99-65-0 | m (or) 1,3-Dinitrobenzene | 1 | 0.067 | 0.05 |
| 100-25-4 | p (or) 1,4-Dinitrobenzene | 1 | 0.067 | 0.05 |
| 534-52-1 | Dinitro-o-cresol | 0.2 | 0.013 | 0.01 |
| 148-01-6 | 3,5-Dinitro-o-toluamide, see Dinitolmide | | | |
| 117-84-0 | N-Dioctyl Phthalate | 5 | 0.333 | 0.25 |
| 78-34-2 | Dioxathion | 0.2 | 0.013 | 0.01 |
| 92-52-4 | Diphenyl, see Biphenyl | | | |
| 122-39-4 | Diphenylamine | 10 | 0.667 | 0.5 |
| | Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate | | | |
| 34590-94-8 | Dipropylene glycol methyl ether | 600 | 40 | 30 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 123-19-3 | Dipropyl ketone | 235 | 15.7 | 11.75 |
| 85-00-7 | Diquat | 0.5 | 0.033 | 0.01 |
| 97-77-8 | Disulfiram | 2 | 0.133 | 0.1 |
| 298-04-4 | Disulfoton | 0.1 | 0.007 | 0.005 |
| 128-37-0 | 2,6-Ditert. butyl-p-cresol | 10 | 0.667 | 0.5 |
| 330-54-1 | Diuron | 10 | 0.667 | 0.5 |
| 108-57-6 | Divinyl benzene | 50 | 3.33 | 2.5 |
| 1302-74-5 | Emery (corundum) total dust (> 1% silica) | 10 | 0.667 | 0.5 |
| 115-29-7 | Endosulfan | 0.1 | 0.007 | 0.005 |
| 72-20-8 | Endrin | 0.1 | 0.007 | 0.005 |
| 13838-16-9 | Enflurane | 566 | 37.7 | 28.3 |
| 1395-21-7 | Enzymes, see Subtilisins | | | |
| 2104-64-5 | EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine) | 0.5 | 0.033 | 0.025 |
| 106-88-7 | 1,2-Epoxybutane (MI) | --- | 0.8 | 0.6 |
| 75-56-9 | 1,2-Epoxypropane, see Propylene oxide | | | |
| 556-52-5 | 2,3-Epoxy-1-propanol, see Glycidol | | | |
| 75-08-1 | Ethanethiol, see Ethyl mercaptan | | | |
| 141-43-5 | Ethanolamine | 8 | 0.533 | 0.4 |
| 563-12-2 | Ethion | 0.4 | 0.027 | 0.02 |
| 110-80-5 | 2-Ethoxyethanol | 19 | 1.27 | 0.95 |
| 111-15-9 | 2-Ethoxyethyl acetate (EGEEA) | 27 | 1.8 | 1.35 |
| 141-78-6 | Ethyl acetate | 1400 | 93.3 | 70 |
| 64-17-5 | Ethyl alcohol | 1880 | 125 | 94 |
| 75-04-7 | Ethylamine | 18 | 1.2 | 0.9 |
| 541-85-5 | Ethyl amyl ketone | 130 | 8.67 | 6.5 |
| 100-41-4 | Ethyl benzene | 435 | 29 | 21.75 |
| 74-96-4 | Ethyl bromide | 22 | 1.47 | 1.1 |
| 106-35-4 | Ethyl butyl ketone | 230 | 15.3 | 11.5 |
| 51-79-6 | Ethyl carbamate (Urethane) (WA) | --- | 0.002 | 0.0015 |
| 75-00-3 | Ethyl chloride | 2640 | 176 | 132 |
| 107-07-3 | Ethylene chlorohydrin | 3 | 0.2 | 0.15 |
| 107-15-3 | Ethylenediamine | 25 | 1.67 | 1.25 |
| 107-06-2 | Ethylene dichloride | 40 | 2.667 | 2 |
| 107-21-1 | Ethylene glycol vapor (CL) | 127 | 0.846 | 6.35 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 628-96-6 | Ethylene glycol denigrate | 0.31 | 0.021 | 0.016 |
| 110-49-6 | Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate | | | |
| 96-45-7 | Ethylene thiourea (PL2) | --- | 0.047 | 0.035 |
| 109-94-4 | Ethyl formate | 300 | 20 | 15 |
| 16219-75-3 | Ethylidene norbornene (CL) | 25 | 0.167 | 1.25 |
| 75-08-1 | Ethyl mercaptan | 1 | 0.067 | 0.05 |
| 100-74-3 | N-Ethylmorpholine | 23 | 1.53 | 1.15 |
| 78-10-4 | Ethyl silicate | 85 | 5.67 | 4.25 |
| 22224-92-6 | Fenamiphos | 0.1 | 0.007 | 0.005 |
| 115-90-2 | Fensulfothion | 0.1 | 0.007 | 0.005 |
| 55-38-9 | Fenthion | 0.2 | 0.013 | 0.01 |
| 14484-64-1 | Ferbam | 10 | 0.667 | 0.5 |
| 12604-58-9 | Ferrovanadium dust | 1 | 0.067 | 0.05 |
| NA | Fibrous glass dust | 10 | 0.667 | 0.5 |
| NA | Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID) | -- | 0.661 | 0.5 |
| NA | Fluorides, as F | 2.5 | 0.167 | 0.125 |
| 7782-41-4 | Fluorine | 2 | 0.133 | 0.1 |
| 944-22-9 | Fonofos | 0.1 | 0.007 | 0.005 |
| 75-12-7 | Formamide | 30 | 2 | 1.5 |
| 64-18-6 | Formic acid | 9.4 | 0.627 | 0.47 |
| 98-01-1 | Furfural | 8 | 0.533 | 0.4 |
| 98-00-0 | Furfuryl alcohol | 40 | 2.67 | 2 |
| 7782-65-2 | Germanium tetrahydride | 0.6 | 0.04 | 0.03 |
| NA | Glass, Fibrous or dust, see Fibrous glass dust | | | |
| 111-30-8 | Glutaraldehyde (CL) | 0.82 | 0.0047 | 0.041 |
| 556-52-5 | Glycidol | 75 | 5 | 3.75 |
| 110-80-5 | Glycol monoethyl ether, see 2-Ethoxyethanol | | | |
| 7440-58-6 | Hafnium | 0.5 | 0.033 | 0.025 |
| 110-43-0 | 2-Heptanone, see Methyl n-amyl ketone | | | |
| 106-35-4 | 3-Heptanone, see Ethyl butyl ketone | | | |
| 151-67-7 | Halothane | 404 | 26.9 | 20.2 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 142-82-5 | Heptane (n-Heptane) | 1640 | 109 | 82 |
| 77-47-4 | Hexachlorocyclopentadiene | 0.1 | 0.007 | 0.005 |
| 1335-87-1 | Hexachloronaphthalene | 0.2 | 0.013 | 0.010 |
| 684-16-2 | Hexafluoroacetone | 0.7 | 0.047 | 0.035 |
| 822-06-0 | Hexamethylene diisocyanate | 0.03 | 0.002 | 0.0015 |
| 680-31-9 | Hexamethylphosphoramide (WA) | --- | 0.002 | 0.0015 |
| 110-54-3 | Hexane (n-Hexane) | 180 | 12 | 9 |
| 591-78-6 | 2-Hexanone, see Methyl n-butyl ketone | | | |
| 108-10-1 | Hexone, see Methyl isobutyl ketone | | | |
| 108-84-9 | sec-Hexyl acetate | 300 | 20 | 15 |
| 107-41-5 | Hexylene glycol (CL) | 121 | 0.806 | 6.05 |
| 37275-59-5 | Hydrogenated terphenyls | 5 | 0.333 | 0.25 |
| 10035-10-6 | Hydrogen bromide (CL) | 10 | 0.0667 | 0.5 |
| 7647-01-0 | Hydrogen chloride (CL) | 7.5 | 0.05 | 0.375 |
| 7722-84-1 | Hydrogen peroxide | 1.5 | 0.1 | 0.075 |
| 7783-06-4 | Hydrogen sulfide | 14 | 0.933 | 0.7 |
| 123-31-9 | Hydroquinone | 2 | 0.133 | 0.1 |
| 123-42-2 | 4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol | | | |
| 999-61-1 | 2 -Hydroxypropyl acrylate | 3 | 0.2 | 0.15 |
| 95-13-6 | Indene | 45 | 3 | 2.25 |
| 7440-74-6 | Indium & compounds as In | 0.1 | 0.007 | 0.005 |
| 7553-56-2 | Iodine (CL) | 0.1 | 0.0067 | 0.005 |
| 75-47-8 | Iodoform | 10 | 0.667 | 0.5 |
| 1309-37-1 | Iron oxide fume (Fe2O3) as Fe | 5 | 0.333 | 0.25 |
| 13463-40-6 | Iron pentacarbonyl as Fe | 0.8 | 0.053 | 0.04 |
| 7439-89-6 | Iron salts, soluble, as Fe | 1 | 0.067 | 0.05 |
| 123-92-2 | Isoamyl acetate | 525 | 35 | 26.25 |
| 123-51-3 | Isoamyl alcohol | 360 | 24 | 18 |
| 110-19-0 | Isobutyl acetate | 700 | 46.7 | 35 |
| 78-83-1 | Isobutyl alcohol | 150 | 10 | 6 |
| 26952-21-6 | Isooctyl alcohol | 270 | 18 | 13.5 |
| 78-59-1 | Isophorone | 28 | 1.867 | 1.4 |
| 4098-71-9 | Isophorone diisocyanate | 0.09 | 0.006 | 0.0045 |
| 109-59-1 | Isopropoxyethanol | 105 | 7 | 5.25 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 108-21-4 | Isopropyl Acetate | 1040 | 69.3 | 52 |
| 67-63-0 | Isopropyl alcohol | 980 | 65.3 | 49 |
| 75-31-0 | Isopropylamine | 12 | 0.8 | 0.6 |
| 643-28-7 | N-Isopropylaniline | 10 | 0.667 | 0.5 |
| 108-20-3 | Isopropyl ether | 1040 | 69.3 | 52 |
| 4016-14-2 | Isopropyl glycidyl ether (IGE) | 240 | 16 | 12 |
| 1332-58-7 | Kaolin (respirable dust) | 2 | 0.133 | 0.1 |
| 463-51-4 | Ketene | 0.9 | 0.06 | 0.045 |
| 7580-67-8 | Lithium hydride | 0.025 | 0.002 | 0.00125 |
| 546-93-0 | Magnesite | 10 | 0.667 | 0.5 |
| 1309-48-4 | Magnesium oxide fume | 10 | 0.667 | 0.5 |
| 121-75-5 | Malathion | 10 | 0.667 | 0.5 |
| 108-31-6 | Maleic anhydride | 1 | 0.067 | 0.05 |
| 7439-96-5 | Manganese as Mn Including: | | | |
| 7439-96-5 | Dust & compounds | 5 | 0.333 | 0.25 |
| 7439-96-5 | Fume | 1 | 0.067 | 0.05 |
| 101-68-8 | MDI, see Methylene diphenyl isocyanate | | | |
| NA | Mercaptans not otherwise listed (ID) | --- | 0.033 | 0.025 |
| 141-79-7 | Mesityl oxide | 60 | 4 | 3 |
| 79-41-4 | Methacrylic acid | 70 | 4.67 | 3.5 |
| 74-93-1 | Methanethiol, see Methyl mercaptan | | | |
| 67-56-1 | Methanol | 260 | 17.3 | 13 |
| 16752-77-5 | Methomyl | 2.5 | 0.17 | 0.125 |
| 72-43-5 | Methoxychlor | 10 | 0.667 | 0.5 |
| 109-86-4 | 2-Methoxyethanol | 16 | 1.07 | 0.8 |
| 110-49-6 | 2-Methoxyethyl acetate | 24 | 1.6 | 1.2 |
| 150-76-5 | 4-Methoxyphenol | 5 | 0.333 | 0.25 |
| 108-65-6 | 1-methoxy-2-propyl acetate (ID) | n/a | 24 | 3.6 |
| 79-20-9 | Methyl acetate | 610 | 40.7 | 30.5 |
| 74-99-7 | Methyl acetylene | 1640 | 109 | 82 |
| NA | Methyl acetylene-propadiene mix (MAPP) | 1640 | 109 | 82 |
| 96-33-3 | Methyl acrylate | 35 | 2.33 | 1.75 |
| 126-98-7 | Methylacrylonitrile | 3 | 0.2 | 0.15 |
| 74-89-5 | Methylamine | 12 | 0.8 | 0.6 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 108-11-2 | Methyl emyl alcohol, see Methyl isobutyl carbinol | | | |
| 110-43-0 | Methyl n-amyl ketone | 235 | 15.7 | 11.75 |
| 100-61-8 | N-Methyl aniline | 2 | 0.133 | 0.1 |
| 74-83-9 | Methyl bromide | 19 | 1.27 | 0.95 |
| 591-78-6 | Methyl n-butyl ketone | 20 | 1.33 | 1 |
| 74-87-3 | Methyl chloride | 103 | 6.867 | 5.15 |
| 71-55-6 | Methyl chloroform | 1910 | 127 | 95.5 |
| 137-05-3 | Methyl 2-cyano-acrylate | 8 | 0.533 | 0.4 |
| 25639-42-3 | Methylcyclohexanol | 235 | 15.7 | 11.75 |
| 583-60-8 | o-Methylcyclohexanone | 230 | 15.3 | 11.5 |
| 8022-00-2 | Methyl demeton | 0.5 | 0.033 | 0.01 |
| 101-68-8 | Methylenediphenyl diisocyanate (MDI) | 0.05 | 0.003 | 0.0025 |
| 5124-30-1 | Methylene bis (4-cyclohexyl isocyanate) | 0.11 | 0.007 | 0.0055 |
| 78-93-3 | Methyl ethyl ketone (MEK) | 590 | 39.3 | 29.5 |
| 1338-23-4 | Methyl ethyl ketone peroxide (CL) | 1.5 | 0.01 | 0.0075 |
| 107-31-3 | Methyl formate | 246 | 16.4 | 12.3 |
| 541-85-5 | 5-Methyl-3-heptanone, see Ethyl amyl ketone | | | |
| 110-12-3 | Methyl isoamyl ketone | 240 | 16 | 12 |
| 108-11-2 | Methyl isobutyl carbinol | 104 | 6.93 | 5.2 |
| 108-10-1 | Methyl isobutyl ketone | 205 | 13.7 | 10.25 |
| 624-83-9 | Methyl isocyanate | 0.05 | 0.003 | 0.0025 |
| 563-80-4 | Methyl isopropyl ketone | 705 | 47 | 35.25 |
| 74-93-1 | Methyl mercaptan | 0.5 | 0.033 | 0.025 |
| 80-62-6 | Methyl methacrylate | 410 | 27.3 | 20.5 |
| 298-00-0 | Methyl parathion | 0.2 | 0.013 | 0.01 |
| 107-87-9 | Methyl propyl ketone | 700 | 46.7 | 35 |
| 681-84-5 | Methyl silicate | 6 | 0.4 | 0.3 |
| 98-83-9 | a-Methyl styrene | 240 | 16 | 10.20 |
| 109-87-5 | Methylal (dimethoxymethane) | 3110 | 207 | 155.5 |
| 108-87-2 | Methylcyclohexane | 1610 | 107 | 80.5 |
| 21087-64-9 | Metribuzin | 5 | 0.333 | 0.25 |
| 7786-34-7 | Mevinphos | 0.1 | 0.007 | 0.005 |
| 12001-26-2 | Mica (Respirable dust) | 3 | 0.2 | 0.15 |
| NA | Mineral Wool Fiber (no asbestos) | 10 | 0.667 | 0.5 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 7439-98-7 | Molybdenum as Mo - Including: | | | |
| NA | Soluble compounds | 5 | 0.333 | 0.25 |
| NA | Insoluble compounds | 10 | 0.667 | 0.5 |
| 108-90-7 | Monochlorobenzene, see Chlorobenzene | | | |
| 6923-22-4 | Monocrotophos | 0.25 | 0.017 | 0.0125 |
| 110-91-8 | Morpholine | 70 | 4.67 | 0.35 |
| 300-76-5 | Naled | 3 | 0.2 | 0.15 |
| 91-20-3 | Naphthalene | 50 | 3.33 | 2.5 |
| 54-11-5 | Nicotine | 0.5 | 0.033 | 0.025 |
| 1929-82-4 | Nitrapyrin | 10 | 0.667 | 0.5 |
| 7697-37-2 | Nitric acid | 5 | 0.333 | 0.25 |
| 100-01-6 | p-Nitroaniline | 3 | 0.2 | 0.15 |
| 98-95-3 | Nitrobenzene | 5 | 0.333 | 0.25 |
| 100-00-5 | p-Nitrochlorobenzene | 3 | 0.2 | 0.15 |
| 79-24-3 | Nitroethane | 310 | 20.7 | 15.5 |
| 7783-54-2 | Nitrogen trifluoride | 29 | 1.93 | 1.45 |
| 55-63-0 | Nitroglycerin | 0.46 | 0.031 | 0.023 |
| 75-52-5 | Nitromethane | 50 | 3.333 | 2.5 |
| 108-03-2 | 1-Nitropropane | 90 | 6 | 4.5 |
| 99-08-1 | m (or) 3-Nitrotoluene | 11 | 0.733 | 0.55 |
| 88-72-2 | o (or) 2-Nitrotoluene | 11 | 0.733 | 0.55 |
| 99-99-0 | p (or) 4-Nitrotoluene | 11 | 0.733 | 0.55 |
| 76-06-2 | Nitrotrichloromethane, see Chloropicrin | | | |
| 10024-97-2 | Nitrous oxide | 90 | 6 | 4.5 |
| 111-84-2 | Nonane | 1050 | 70 | 52.5 |
| 2234-13-1 | Octachloronaphthalene | 0.1 | 0.007 | 0.005 |
| 111-65-9 | Octane | 1400 | 93.3 | 70 |
| NA | Oil mist, mineral | 5 | 0.333 | 0.25 |
| 20816-12-0 | Osmium tetroxide as Os | 0.002 | 0.0001 | 0.0001 |
| 144-62-7 | Oxalic acid | 1 | 0.067 | 0.05 |
| 7783-41-7 | Oxygen difluoride (CL) | 0.11 | 0.0007 | 0.0005 |
| 8002-74-2 | Paraffin wax fume | 2 | 0.133 | 0.1 |
| 4685-14-7 | Paraquat | 0.1 | 0.007 | 0.007 |
| NA | Paraquat, all Compounds | 0.1 | 0.007 | 0.005 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 56-38-2 | Parathion | 0.1 | 0.007 | 0.005 |
| 19624-22-7 | Pentaborane | 0.01 | 0.001 | 0.0005 |
| 1321-64-8 | Pentachloronaphthalene | 0.5 | 0.033 | 0.025 |
| 82-68-8 | Pentachloronitrobenzene | 0.5 | 0.0333 | 0.025 |
| 87-86-5 | Pentachlorophenol | 0.5 | 0.033 | 0.025 |
| 109-66-0 | Pentane | 1770 | 118 | 88.5 |
| 107-87-9 | 2-Pentanone, see Methyl propyl ketone | | | |
| 594-42-3 | Perchloromethyl mercaptan | 0.8 | 0.053 | 0.04 |
| 7616-94-6 | Perchloryl Fluoride | 13 | 0.867 | 0.65 |
| 93763-70-3 | Perlite | 10 | 0.667 | 0.5 |
| 532-27-4 | Phenacyl chloride, see a-Chloroacetophenone | | | |
| 108-95-2 | Phenol | 19 | 1.27 | 0.95 |
| 92-84-2 | Phenothiazine | 5 | 0.333 | 0.25 |
| 108-45-2 | m-Phenylenediamine | 0.1 | 0.0067 | 0.005 |
| 106-50-3 | p-Phenylenediamine | 0.1 | 0.007 | 0.005 |
| 101-84-8 | Phenyl ether, vapor | 7 | 0.467 | 0.035 |
| 122-60-1 | Phenyl glycidyl ether (PGE) | 6 | 0.4 | 0.3 |
| 108-98-5 | Phenyl mercaptan | 2 | 0.133 | 0.1 |
| 638-21-1 | Phenylphosphine (CL) | 0.25 | 0.0017 | 0.00125 |
| 298-02-2 | Phorate | 0.05 | 0.003 | 0.001 |
| 7786-34-7 | Phosdrin, see Mevinphos | | | |
| 75-44-5 | Phosgene | 0.4 | 0.027 | 0.02 |
| 7803-51-2 | Phosphine | 0.4 | 0.027 | 0.02 |
| 7664-38-2 | Phosphoric acid | 1 | 0.067 | 0.05 |
| 7723-14-0 | Phosphorus | 0.1 | 0.007 | 0.005 |
| 10025-87-3 | Phosphorus oxychloride | 0.6 | 0.04 | 0.030 |
| 10026-13-8 | Phosphorus penta-chloride | 1 | 0.067 | 0.05 |
| 1313-80-3 | Phosphorus penta-sulfide | 1 | 0.067 | 0.05 |
| 1314-56-3 | Phosphorus pentoxide (ID) | -- | 0.067 | 0.05 |
| 7719-12-2 | Phosphorus trichloride | 1.5 | 0.1 | 0.075 |
| 85-44-9 | Phthalic anhydride | 6 | 0.4 | 0.3 |
| 626-17-5 | m-Phthalodinitrile | 5 | 0.333 | 0.25 |
| 1918-02-1 | Picloram | 10 | 0.667 | 0.5 |
| 88-89-1 | Picric acid | 0.1 | 0.006 | 0.005 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 83-26-1 | Pindone | 0.1 | 0.007 | 0.005 |
| 142-64-3 | Piperazine dihydro-chloride | 5 | 0.333 | 0.25 |
| 83-26-1 | 2-Pivaloyl-l,3-indandione, see Pindone | | | |
| 7440-06-4 | Platinum - Including: | | | |
| 7440-06-4 | Metal | 1 | 0.067 | 0.05 |
| NA | Soluble salts, as Pt | 0.002 | 0.0001 | 0.0001 |
| 65997-15-1 | Portland cement | 10 | 0.667 | 0.5 |
| 1310-58-3 | Potassium hydroxide | 2 | 0.133 | 0.1 |
| 107-19-7 | Propargyl alcohol | 2.3 | 0.153 | 0.115 |
| 123-38-6 | Propionaldehyde (LA) | 0.43 | 0.0287 | 0.0215 |
| 79-09-4 | Propionic acid | 30 | 2 | 1.5 |
| 114-26-1 | Propoxur (Baygon) | 0.5 | 0.033 | 0.025 |
| 109-60-4 | n-Propyl acetate | 840 | 56 | 42 |
| 71-23-8 | Propyl alcohol | 500 | 33.3 | 25 |
| 78-87-5 | Propylene dichloride | 347 | 23.133 | 17.35 |
| 6423-43-4 | Propylene glycol dinitrate | 0.34 | 0.023 | 0.017 |
| 107-98-2 | Propylene glycol monomethyl ether | 360 | 24 | 18 |
| 75-56-9 | Propylene oxide | 48 | 3.2 | 2.4 |
| 627-13-4 | n-Propyl nitrate | 105 | 7 | 5.25 |
| 8003-34-7 | Pyrethrum | 5 | 0.333 | 0.25 |
| 110-86-1 | Pyridine | 15 | 1 | 0.75 |
| 120-80-9 | Pyrocatechol, see Catechol | | | |
| 106-51-4 | Quinone | 0.4 | 0.027 | 0.02 |
| 121-84-4 | RDX, see Cyclonite | | | |
| NA | Refractory Ceramic Fibers<br>(see entry for specific content of emissions, ex: silica) | | | |
| 108-46-3 | Resorcinol | 45 | 3 | 2.25 |
| 7440-16-6 | Rhodium - Including: | | | |
| 7440-16-6 | Metal | 1 | 0.067 | 0.05 |
| NA | Insoluble compounds, as Rh | 1 | 0.067 | 0.05 |
| NA | Soluble compounds, as Rh | 0.01 | 0.001 | 0.0005 |
| 299-84-3 | Ronnel | 10 | 0.667 | 0.5 |
| 83-79-4 | Rotenone (commercial) | 5 | 0.333 | 0.25 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 8030-30-6 | Rubber solvent (Naphtha) | 1590 | 106 | 79.5 |
| 14167-18-1 | Salcoine as CO | 0.1 | 0.007 | 0.005 |
| 7782-49-2 | Selenium | 0.2 | 0.013 | 0.010 |
| NA | Selenium and compounds as Se | 0.2 | 0.013 | 0.01 |
| 136-78-7 | Sesone | 10 | 0.667 | 0.5 |
| 7803-62-5 | Silane, see silicon tectrahydride | | | |
| NA | Silica - amorphous - Including: | | | |
| 61790-53-2 | Diatomaceous earth (uncalcined) | 10 | 0.667 | 0.5 |
| 112926-00-8 | Precipitated silica | 10 | 0.667 | 0.5 |
| 112926-00-8 | Silica gel | 10 | 0.667 | 0.5 |
| NA | Silica, crystalline - Including: | | | |
| 14464-46-1 | Cristobalite | 0.05 | 0.0033 | 0.0025 |
| 14808-60-7 | quartz | 0.1 | 0.0067 | 0.005 |
| 60676-86-0 | silica, fused | 0.1 | 0.0067 | 0.005 |
| 15468-32-3 | tridymite | 0.05 | 0.0033 | 0.0025 |
| 1317-95-9 | Tripoli | 0.1 | 0.0067 | 0.005 |
| 7440-21-3 | Silicon | 10 | 0.667 | 0.5 |
| 409-21-2 | Silicon carbide | 10 | 0.667 | 0.5 |
| 7803-62-5 | Silicon tetrahydride | 7 | 0.467 | 0.35 |
| 7440-22-4 | Silver - Including | | | |
| 7440-22-4 | Metal | 0.1 | 0.007 | 0.005 |
| 7440-22-4 | Soluble compounds, as Ag | 0.01 | 0.001 | 0.005 |
| 26628-22-8 | Sodium azide (CL) | 0.3 | 0.002 | 0.0015 |
| 7631-90-5 | Sodium bisulfite | 5 | 0.333 | 0.25 |
| 136-78-7 | Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone | | | |
| 62-74-8 | Sodium fluoroacetate | 0.05 | 0.003 | 0.0025 |
| 1310-73-2 | Sodium hydroxide | 2 | 0.133 | 0.1 |
| 7681-57-4 | Sodium metabisulfite | 5 | 0.333 | 0.25 |
| NA | Stearates (not including toxic metals) | 10 | 0.667 | 0.5 |
| 7803-52-3 | Stibine | 0.5 | 0.033 | 0.025 |
| 8052-41-3 | Stoddard solvent | 525 | 35 | 26.25 |
| 57-24-9 | Strychnine | 0.15 | 0.01 | 0.0075 |
| 60-41-3 | Strychnine sulfate as strichnine | 0.15 | 0.01 | 0.01 |
| 100-42-5 | Styrene monomer (ID) | -- | 6.67 | 1 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 1395-21-7 | Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme) | 0.00006 | 4.0E-07 | 3.0E-7 |
| 3689-24-5 | Sulfotep | 0.2 | 0.013 | 0.01 |
| 7664-93-9 | Sulfuric acid | 1 | 0.067 | 0.05 |
| 10025-67-9 | Sulfur monochloride (CL) | 6 | 0.04 | 0.03 |
| 5714-22-7 | Sulfur pentafluoride (CL) | 0.1 | 0.0007 | 0.0005 |
| 7783-60-0 | Sulfur tetrafluoride (CL) | 0.4 | 0.0027 | 0.002 |
| 2699-79-8 | Sulfuryl fluoride | 20 | 1.33 | 1 |
| 35400-43-2 | Sulprofos | 1 | 0.067 | 0.05 |
| 8065-48-3 | Systox, see Demeton | | | |
| 93-76-5 | 2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T) | 10 | 0.667 | 0.05 |
| 7440-25-7 | Tantalum | 5 | 0.333 | 0.25 |
| 3689-24-5 | TEDP, see Sulfotep | | | |
| 13494-80-9 | Tellurium & Compounds as Te | 0.1 | 0.007 | 0.005 |
| 7783-80-4 | Tellurium hexafluoride as Te | 0.2 | 0.013 | 0.01 |
| 3383-96-8 | Temephos | 10 | 0.667 | 0.5 |
| 107-49-3 | TEPP (Tetraethyl-pyrophosphate) | 0.05 | 0.003 | 0.0025 |
| 26140-60-3 | Terphenyls | 4.7 | 0.313 | 0.235 |
| 1335-88-2 | Tetrachloronaphthalene | 2 | 0.133 | 0.10 |
| 78-00-2 | Tetraethyl Lead | 0.1 | 0.007 | 0.005 |
| 597-64-8 | Tetraethyltin as organic tin | 0.1 | 0.007 | 0.005 |
| 109-99-9 | Tetrahydrofuran | 590 | 39.3 | 29.5 |
| 75-74-1 | Tetramethyl lead, as Pb | 0.15 | 0.01 | 0.0075 |
| 3333-52-6 | Tetramethyl succinonitrile | 3 | 0.2 | 0.15 |
| 509-14-8 | Tetranitromethane | 8 | 0.533 | 0.4 |
| 7722-88-5 | Tetrasodium pyrophosphate | 5 | 0.333 | 0.25 |
| 479-45-8 | Tetryl | 1.5 | 0.1 | 0.075 |
| 7440-28-0 | Thallium, soluble Compounds, as Tl | 0.1 | 0.007 | 0.005 |
| 96-69-5 | 4,4-Thiobis (6 tert, butyl-m-cresol) | 10 | 0.667 | 0.5 |
| 68-11-1 | Thioglycolic acid | 4 | 0.267 | 0.2 |
| 7719-09-7 | Thionyl chloride (CL) | 4.9 | 0.0327 | 0.245 |
| 137-26-8 | Thiram | 5 | 0.333 | 0.25 |
| 7440-31-5 | Tin - Including: | | | |
| 7440-31-5 | Metal | 2 | 0.133 | 0.1 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| NA | Oxide & inorganic compounds, except SnH4, as Sn | 2 | 0.133 | 0.1 |
| NA | Organic compounds as Sn | 0.1 | 0.007 | 0.005 |
| 108-88-3 | Toluene (toluol) | 375 | 25 | 18.75 |
| 584-84-9 | Toluene-2,4-di-isocyanate (TDI) | 0.04 | 0.003 | 0.002 |
| 10-41-54 | p-Toluenesulfonic acid (ID) | n/a | 0.067 | 0.05 |
| 126-73-8 | Tributyl phosphate | 2.2 | 0.147 | 0.11 |
| 76-03-9 | Trichloroacetic acid | 7 | 0.467 | 0.35 |
| 120-82-1 | 1,2,4-Trichlorobenzene (CL) | 37 | 2.47 | 1.85 |
| 79-01-6 | Trichloroethylene | 269 | 17.93 | 13.45 |
| 1321-65-9 | Trichloronaphthalene | 5 | 0.333 | 0.25 |
| 76-06-2 | Trichloronitromethane, See Chloropicrin | | | |
| 95-95-4 | 2,4,5-Trichlorophenol (MA) | --- | --- | 0.0016 |
| 96-18-4 | l,2,3-Trichloropropane | 60 | 4 | 3 |
| 121-44-8 | Triethylamine | 4.1 | 0.27 | 0.2 |
| 1582-09-8 | Trifluralin (PL3) | --- | 7.7 | 1.15 |
| 552-30-7 | Trimellitic anhydride | 0.04 | 0.003 | 0.002 |
| 75-50-3 | Trimethylamine | 12 | 0.8 | 0.6 |
| 25551-13-7 | Trimethyl benzene (mixed and individual isomers) | 123 | 8.2 | 6.15 |
| 540-84-1 | 2,2,4-Trimethyl-pentane | 350 | 23.3 | 17.5 |
| 121-45-9 | Trimethyl phosphite | 10 | 0.667 | 0.5 |
| 479-45-8 | 2,4,6-Trinitrophenyl-methylnitramine, see Tetryl | | | |
| 78-30-8 | Triorthocresyl phosphate | 0.1 | 0.007 | 0.005 |
| 603-34-9 | Triphenyl amine | 5 | 0.333 | 0.25 |
| 115-86-6 | Triphenyl phosphate | 3 | 0.2 | 0.15 |
| 7440-33-7 | Tungsten - Including: | | | |
| NA | Insoluble compounds | 5 | 0.333 | 0.25 |
| NA | Soluble compounds | 1 | 0.067 | 0.05 |
| 8006-64-2 | Turpentine | 560 | 37.3 | 28 |
| 7440-61-1 | Uranium (natural) Soluble & insoluble compounds as U | 0.2 | 0.013 | 0.01 |
| 110-62-3 | n-Valeraldehyde | 175 | 11.7 | 8.75 |
| 1314-62-1 | Vanadium, as V2O5<br>Respirable Dust & fume | 0.05 | 0.003 | 0.0025 |
| 108-05-4 | Vinyl acetate | 35 | 2.3 | 1.75 |
| 25013-15-4 | Vinyl toluene | 240 | 16 | 12 |

| CAS NUMBER | SUBSTANCE | OEL (mg/m3) | EL (lb/hr) | AAC (mg/m3) |
|---|---|---|---|---|
| 8032-32-4 | VM & P Naphtha | 1370 | 91.3 | 68.5 |
| 81-81-2 | Warfarin | 0.1 | 0.007 | 0.005 |
| 1330-20-7 | Xylene (o-, m-, p-isomers) | 435 | 29 | 21.75 |
| 1477-55-0 | m-Xylene a, a-diamine (CL) | 0.1 | 0.0007 | 0.0005 |
| 1300-73-8 | Xylidine | 2.5 | 1.67 | 0.125 |
| 7440-65-5 | Yttrium (Metal and compounds as Y) | 1 | 0.067 | 0.05 |
| 7440-66-6 | Zinc metal (ID) | -- | 0.667 | 0.5 |
| 7646-85-7 | Zinc chloride fume | 1 | 0.067 | 0.05 |
| 1314-13-2 | Zinc oxide fume | 5 | 0.333 | 0.05 |
| 1314-13-2 | Zinc oxide dust | 10 | 0.667 | 0.5 |
| 7440-67-7 | Zirconium compounds as Zr | 5 | 0.333 | 0.25 |

**Note: ACGIH**: American Conference of Government Industrial Hygienists; **CAS**: Chemical Abstract Service; **CL**: Derived from ACGIH ceiling Limit UF = 10; **ID**. Idaho ~~Division~~ Department of Environmental Quality. Not OEL based; **LA**: From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA; **MA**: From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no UF; **MI**. From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual averaging time, no UF.; **NY**: From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, annual averaging. time no UF; **OEL**: Reference Occupational Exposure Level; **PL**: From Phil. Dept. of Air Management Services. Not OEL based, annual. averaging time no UF; **PL1**: From Phil. Dept. of Air Management Services. Unspecified OEL based, annual averaging time, UF=10; **PL2**: From Phil. Dept. of Air Management Services. Not OEL based annual averaging. time, UF=10; **PL3**: From Phil. Dept. of Air Management Services. Not OEL based, annual averaging. time, UF=1000.; **TWA**: Time Weighted Average; **UF**: Uncertainty Factor; **WA**: From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. ~~(3-28-23)~~( )

**586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.**

**01. Toxic Air Pollutant Carcinogenic Increments**. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. ( )

**02. Carcinogen Table**. The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages. ~~(3-28-23)~~( )

| CAS NUMBER | SUBSTANCE | URF | EL lb/hr | AACC ug/m3 |
|---|---|---|---|---|
| 75-07-0 | Acetaldehyde | 2.2E-06 | 3.0E-03 | 4.5E-01 |
| 79-06-1 | Acrylamide | 1.3E-03 | 5.1E-06 | 7.7E-04 |
| 107-13-1 | Acrylonitrile | 6.8E-05 | 9.8E-05 | 1.5E-02 |
| 309-00-2 | Aldrin | 4.9E-03 | 1.3E-06 | 2.0E-04 |
| 62-53-3 | Aniline | 7.4E-06 | 9.0E-04 | 1.4E-01 |

| CAS NUMBER | SUBSTANCE | URF | EL lb/hr | AACC ug/m3 |
|---|---|---|---|---|
| 140-57-8 | Aramite | 7.1E-06 | 9.3E-04 | 1.4E-01 |
| NA | Aroclor, all (PCB) (ID) | --- | 6.6E-05 | 1.0E-02 |
| 7440-38-2 | Arsenic compounds | 4.3E-03 | 1.5E-06 | 2.3E-04 |
| 1332-21-4 | Asbestos (Fibers /M.L.) | 2.3E-01 | N/A | 4.0E-06 |
| 71-43-2 | Benzene | 8.3E-06 | 8.0E-04 | 1.2E-01 |
| 92-87-5 | Benzidine | 6.7E-02 | 9.9E-08 | 1.5E-05 |
| 50-32-8 | Benzo(a)pyrene | 3.3E-03 | 2.0E-06 | 3.0E-04 |
| 7440-41-7 | Beryllium & compounds | 2.4E-04 | 2.8E-05 | 4.2E-03 |
| 106-99-0 | 1,3-Butadiene | 2.8E-04 | 2.4E-05 | 3.6E-03 |
| 111-44-4 | Bis (2-chloroethyl) ether | 3.3E-04 | 2.0E-05 | 3.0E-03 |
| 542-88-1 | Bis (chloromethyl) ether | 6.2E-02 | 1.0E-07 | 1.6E-05 |
| 108-60-1 | Bis (2-chloro-1-methyl- ethyl) ether | 2.0E-05 | 3.3E-04 | 5.0E-02 |
| 117-81-7 | Bis (2-ethylhexyl) phthalate | 2.4E-07 | 2.8E-02 | 4.2E+00 |
| 7440-43-9 | Cadmium and compounds | 1.8E-03 | 3.7E-06 | 5.6E-04 |
| 56-23-5 | Carbon tetrachloride | 1.5E-05 | 4.4E-04 | 6.7E-02 |
| 57-74-9 | Chlordane | 3.7E-04 | 1.8E-04 | 2.7E-03 |
| 67-66-3 | Chloroform | 2.3E-05 | 2.8E-04 | 4.3E-02 |
| 18540-29-9 | Chromium (VI) & compounds as Cr+6 | 1.2E-02 | 5.6E-07 | 8.3E-05 |
| NA | Coal Tar Volitiles as benzene | | | |
| NA | Coke oven emissions | 6.2E-04 | 1.1E-05 | 1.6E-03 |
| 8001-58-9 | Creosote (ID) See coal tar volatiles as benzene extractables | | | |
| 50-29-3 | DDT (Dichlorodi phenyltrichloroethane) | 9.7E-05 | 6.8E-05 | 1.0E-02 |
| 96-12-8 | 1,2-Dibromo-3-chloropropane | 6.3E-03 | 1.0E-06 | 1.6E-04 |
| 75-34-3 | 1,1 dichloroethane | 2.6E-05 | 2.5E-04 | 3.8E-02 |
| 107-06-2 | 1,2 dichloroethane | 2.6E-05 | 2.5E-04 | 3.8E-02 |
| 75-35-4 | 1,1 dichloroethylene | 5.0E-05 | 1.3E-04 | 2.0E-02 |
| 75-09-2 | Dichloromethane (Methylenechloride) | 4.1E-06 | 1.6E-03 | 2.4E-01 |
| 542-75-6 | 1,3 dichloropropene | 4.0E-06 | 1.7E-03 | 2.5E-01 |
| 764-41-0 | 1,4-Dichloro-2-butene | 2.6E-03 | 2.5E-06 | 3.8E-04 |
| 60-57-1 | Dieldrin | 4.6E-03 | 1.4E-06 | 2.1E-04 |
| 56-53-1 | Diethylstilbestrol | 1.4E-01 | 4.7E-08 | 7.1E-06 |
| 123-91-1 | 1,4 dioxane | 1.4E-06 | 4.8E-03 | 7.1E-01 |

| CAS NUMBER | SUBSTANCE | URF | EL lb/hr | AACC ug/m3 |
|---|---|---|---|---|
| | Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions are considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA, (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005. | | | |
| 122-66-7 | 1,2-Diphenylhydrazine | 2.2E-04 | 3.0E-05 | 4.5E-03 |
| 106-89-8 | Epichlorohydrin | 1.2E-06 | 5.6E-03 | 8.3E-01 |
| 106-93-4 | Ethylene dibromide | 2.2E-04 | 3.0E-05 | 4.5E-03 |
| 75-21-8 | Ethylene oxide | 1.0E-04 | 6.7E-05 | 1.0E-02 |
| 50-00-0 | Formaldehyde | 1.3E-05 | 5.1E-04 | 7.7E-02 |
| 76-44-8 | Heptachlor | 1.3E-03 | 5.1E-06 | 7.7E-04 |
| 1024-57-3 | Heptachlor Epoxide | 2.6E-03 | 2.5E-06 | 3.5E-04 |
| 118-74-1 | Hexachlorobenzene | 4.9E-04 | 1.3E-05 | 2.0E-03 |
| 87-68-3 | Hexachlorobutadiene | 2.0E-05 | 3.3E-04 | 5.0E-02 |
| | Hexachlorocyclo-hexane, Technical | 5.1E-04 | 1.3E-05 | 1.9E-03 |
| 319-84-6 | Hexachlorocyclohexane (Lindane) Alpha (BHC) | 1.8E-03 | 3.7E-06 | 5.6E-04 |
| 319-85-7 | Hexachlorocyclohexane (Lindane) Beta (BHC) | 5.3E-04 | 1.3E-05 | 1.8E-03 |
| 58-89-9 | Hexachlorocyclohexane (Lindane) Gamma (BHC) | 3.8E-04 | 1.7E-05 | 2.6E-03 |
| 67-72-1 | Hexachloroethane | 4.0E-06 | 1.7E-03 | 2.5E-01 |
| 302-01-2 | Hydrazine | 2.9E-03 | 2.3E-06 | 3.4E-04 |
| 10034-93-2 | Hydrazine Sulfate | 2.9E-03 | 2.2E-06 | 3.5E-04 |
| 56-49-5 | 3-methylcholanthrene | 2.7E-03 | 2.5E-06 | 3.7E-04 |
| 75-09-2 | Methylene Chloride | 4.1E-06 | 1.6E-03 | 2.4E-01 |
| 74-87-3 | Methyl chloride | 3.6E-06 | 1.9E-03 | 2.8E-01 |
| 101-14-4 | 4,4-Methylene bis(2-Chloroaniline) | 4.7E-05 | 1.4E-04 | 2.1E-02 |
| 60-34-4 | Methyl hydrazine | 3.1E-04 | 2.2E-05 | 3.2E-03 |
| 7440-02-0 | Nickel | 2.4E-04 | 2.7E-05 | 4.2E-03 |
| 12035-72-2 | Nickel Subsulfide | 4.8E-04 | 1.4E-05 | 2.1E-02 |
| 7440-02-0 | Nickel Refinery Dust | 2.4E-04 | 2.8E-05 | 4.2E-02 |
| 79-46-9 | 2-Nitropropane | 2.7E-02 | 2.5E-07 | 3.7E-05 |
| 55-18-5 | N-Nitrosodiethylamine (diethylnitrosoamine) (DEN) | 4.3E-02 | 1.5E-07 | 2.3E-05 |
| 62-75-9 | N-Nitrosodimethylamine | 1.4E-02 | 4.8E-07 | 7.1E-05 |
| 924-16-3 | N-Nitrosodi-n-butylamine | 1.6E-03 | 4.1E-06 | 6.3E-04 |
| 930-55-2 | N-Nitrosopyrolidine | 6.1E-04 | 1.1E-05 | 1.6E-03 |

| CAS NUMBER | SUBSTANCE | URF | EL lb/hr | AACC ug/m3 |
|---|---|---|---|---|
| 684-93-5 | N-Nitroso-N-methylurea (NMU) | 3.5E-01 | 1.9E-08 | 2.9E-06 |
| 82-68-8 | Pentachloronitrobenzene | 7.3E-05 | 9.1E-05 | 1.4E-02 |
| 127-18-4 | Perchloroethylene (see tetrachloroethylene) | | | |
| NA | Polyaromatic Hydrocarbons (except 7-PAH group) | 7.3E-05 | 9.1E-05 | 1.4E-02 |
| | (Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs are considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indenol(1,2,3,-cd)pyrene, benzo(a)pyrene. (WA) | | | |
| 23950-58-5 | Promanide | 4.6E-06 | 1.5E-03 | 2.2E-01 |
| 50-55-5 | Reserpine | 3.0E-03 | 2.2E-06 | 3.3E-04 |
| 1746-01-6 | 2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD) | 4.5.E+01 | 1.5E-10 | 2.2E-08 |
| NA | Soots and Tars (ID) See coal tar volatiles as benzene extractables. | | | |
| 79-34-5 | 1,1,2,2,Tetrachloro-ethane | 5.8E-05 | 1.1E-05 | 1.7E-02 |
| 127-18-4 | Tetrachloroethylene | 4.8E-07 | 1.3E-02 | 2.1E+00 |
| 79-00-5 | 1,1,2 - trichloroethane | 1.6E-05 | 4.2E-04 | 6.2E-02 |
| 62-56-6 | Thiourea | 5.5E-04 | 1.2E-05 | 1.8E-03 |
| 8001-35-2 | Toxaphene | 3.2E-04 | 2.0E-05 | 3.0E-03 |
| 79-01-6 | Trichloroethylene | 1.3E-06 | 5.1E-04 | 7.7E-01 |
| 88-06-2 | 2,4,6 - Trichlorophenol | 5.7E-06 | 1.2E-03 | 1.8E-01 |
| 75-01-4 | Vinyl chloride | 7.1E-06 | 9.4E-04 | 1.4E-01 |

**Note:** CAS: Chemical Abstract Service; **ID**: Idaho ~~Division~~ Department of Environmental Quality. Not OEL based; **URF**: Unit Risk Factor from EPA. **WA**: From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. ~~(3-28-23)~~( )

*(BREAK IN CONTINUITY OF SECTIONS)*

## 600. RULES FOR CONTROL OF OPEN BURNING.

**01. General.** Sections 600 through 624 establish rules to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. ~~(3-28-23)~~( )

**02. Open Burning.** Burning of matter where the products of combustion are emitted directly into the ambient air without passing through a stack, duct or chimney. ( )

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

## DOCKET NO. 58-0108-2401

## NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapter 1, Title 39, 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 September 20, 2024. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The Environmental Protection Agency (EPA) issued an adaptive and flexible National Primary Drinking Water Regulation (NPDWR) under the Safe Drinking Water Act (SDWA) to manage risks of per- and polyfluoroalkyl substances (PFAS) in drinking water. 89 FR 32532 (effective June 25, 2024). The purpose of this rulemaking is to incorporate by reference the NPDWR for PFAS into IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems. The proposed rule updates federal regulations incorporated by reference with the July 1, 2024 Code of Federal Regulations (CFR) effective date. The July 1, 2024 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2024.

The final NPDWR for PFAS establishes Maximum Contaminant Level Goals (MCLGs) and enforceable Maximum Contaminant Levels (MCLs) for six PFAS compounds: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA, commonly known as GenX Chemicals), and perfluorobutane sulfonic acid (PFBS).

EPA's final rule represents data-driven drinking water standards that are based on the best available science and meet the requirements of SDWA. For the six PFAS, EPA considered PFAS health effects information, evidence supporting dose-additive health concerns from co-occurring PFAS, as well as national and state data for the levels of multiple PFAS in finished drinking water.

The state of Idaho has two years to obtain primacy of this rule from EPA, otherwise EPA will remain the regulatory authority for this rule over Idaho's approximately 2,000 public water systems. This proposed rule will provide the Department of Environmental Quality regulatory authority for this final rule, which is required to support a primacy package.

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 adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

**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:

Adoption of federal regulations is necessary to maintain state program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Incorporation by reference ensures that Idaho's rules will be neither more nor less stringent than the federal rule. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2401/

**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: Not applicable.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible pursuant to Section 67-5220, Idaho Code, due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary to maintain state program primacy.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact Tyler Fortunati at tyler.fortunati@deq.idaho.gov or (208) 373-0410.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 4, 2024. Submit written comments to:

Tyler Fortunati
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Tyler.fortunati@deq.idaho.gov

Dated this 4th day of September, 2024.

Janeena White
Senior Operations Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0151
Janeena.White@deq.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0108-2401**
**(Only Those Sections With Amendments Are Shown.)**

## 58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

### 002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

**01. Incorporation by Reference**. (7-1-24)

**a.** 40 CFR Part 141, revised as of July 1, 2023~~3~~4 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subpart X); and 40 CFR Part 143, revised as of July 1, 2023~~3~~4. ~~(7-1-24)~~( )

**b.** American Water Works Association (AWWA) Standards, effective December 2022, available for a fee from AWWA, https://www.awwa.org/Publications/Standards/Standards-List or available to be viewed through the

Department's state office. (7-1-24)

**02. Availability of Specific Referenced Material**. Copies of specific documents referenced within these rules are available at the following locations: (7-1-24)

**a.** Recommended Standards for Water Works – Policies for the Review and Approval of Plans and Specifications for Public Water Supplies: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, most current edition, https://www.health.state.mn.us/communities/environment/water/tenstates/standards.html. (7-1-24)

**b.** Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, https://nepis.epa.gov. (7-1-24)

**c.** NSF/ANSI Standard 53-2020, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-53-2020?product_id=2212861. (7-1-24)

**d.** NSF/ANSI Standard 55-2020, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-55-2020?product_id=2229644. (7-1-24)

**e.** NSF/ANSI Standard 58-2020, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-58-2020?product_id=2206515. (7-1-24)

**f.** NSF/ANSI/CAN Standard 60-2021, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-can-60-2021?product_id=2239369. (7-1-24)

**g.** ANSI/NSF Standard 61-2021, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-can-61-2021?product_id=2240016. (7-1-24)

**h.** Manual of Cross-Connection Control, Current Edition, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, https://www.uscfoundationstore.com/Manual-of-Cross-Connection-Control-Tenth-Edition-P44.aspx. (7-1-24)

**i.** Manual of design for Slow Sand Filtration (1991), published by AWWA Research Foundation https://www.directtextbook.com/isbn/0898675510. (7-1-24)

**j.** Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers, https://www.amazon.com/Slow-Sand-Filtration-Gary-Logsdon/dp/0872628477. (7-1-24)

**k.** Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, https://www.scribd.com/document/163696548/331-204-pdf. (7-1-24)

**l.** Recommended Operations and Optimization Goals, Slow Sand Filtration, DOH Pub #331-601 (6/21), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, https://www.doh.wa.gov/Portals/1/Documents/Pubs/331-601.pdf. (7-1-24)

**m.** Water System Design Manual, DOH Pub #331-123 (Rev. 6-20), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/WaterSystemDesignandPlanning/SystemDesign. (7-1-24)

**n.** Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, http://

water.epa.gov/lawsregs/rulesregs/sdwa/swtr/upload/guidsws.pdf. (7-1-24)

**o.** Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, www.standardmethods.org. (7-1-24)

**p.** "Idaho Standards for Public Works Construction," Local Highway Technical Assistance Council, https://lhtac.org/resources/ispwc. (7-1-24)

**q.** Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (7-1-24)

**r.** Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, https://www2.deq.idaho.gov/admin/LEIA/api/document/download/6040. (7-1-24)

**s.** Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4790. (7-1-24)

**t.** Implementation Guidance for the Drinking Water Program-Ground Water Rule, Idaho Department of Environmental Quality, https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4778. (7-1-24)

**u.** AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), current edition available from the AWWA, https://engage.awwa.org/PersonifyEbusiness/Store/Product-Details/productId/46494412. (7-1-24)

**v.** Membrane Filtration Guidance Manual (EPA 815-R-06-009) published by the U.S. Environmental Protection Agency, https://sswm.info/sites/default/files/reference_attachments/EPA%202005%20Membrane%20Filtration%20Guidance%20Manual.pdf. (7-1-24)

**w.** Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface water Treatment Rule (EPA 815-R-06-007) published by the U.S. Environmental Protection Agency, https://www.epa.gov/dwreginfo/long-term-2-enhanced-surface-water-treatment-rule-documents. (7-1-24)

**x.** Improving Clearwell Design for CT Compliance, Report #90756, available from the Water Research Foundation, https://www.waterrf.org/research/projects/improving-clearwell-design-ct-compliance. (7-1-24)

**y.** Surface Water Treatment Rule Compliance Guidance, dated January 10, 1996, Idaho Department of Environmental Quality, https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/. (7-1-24)

**z.** Uniform Plumbing Code, available through the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, http://dbs.idaho.gov. (7-1-24)

**aa.** Optimizing Water Treatment Plant Performance Using the Composite Correction Program (EPA/625/6-91/027) published by the U.S. Environmental Protection Agency, https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&direntryid=23902. (7-1-24)

**03. Precedence**. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules prevail. (7-1-24)

***(BREAK IN CONTINUITY OF SECTIONS)***

**005. DISAPPROVAL DESIGNATION.**

The Department may assign a disapproved designation to a PWS when: (7-1-24)

**01. Defects**. There are design or construction defects, significant deficiencies, or health hazards; or (7-1-24)

**02. Operating Procedures**. Operating procedures constitute a health hazard; (7-1-24)

**03. Quality**. Violations of chemical, microbiological, ~~or~~ radiological, or per- and polyfluoroalkyl substances maximum contaminant levels or action levels of these rules; ~~(7-1-24)~~( )

**04. Monitoring**. Violations of monitoring requirements as specified in these rules; (7-1-24)

**05. Unapproved Source**. An unapproved source of drinking water is used or the PWS is interconnected with a disapproved water system; or (7-1-24)

**06. Non-Payment of Annual Fee Assessment**. The annual drinking water system fee assessment is not paid as set forth in Section 010. (7-1-24)

*(BREAK IN CONTINUITY OF SECTIONS)*

**050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.**

**01. Maximum Contaminant Levels for Inorganic Contaminants**.40 CFR 141.11 and 141.62 are incorporated by reference. (7-1-24)

**02. Maximum Contaminant Levels for Organic Contaminants**. 40 CFR 141.61 is incorporated by reference. (7-1-24)

**03. Maximum Contaminant Levels for Turbidity**. 40 CFR 141.13 is incorporated by reference. (7-1-24)

**04. Maximum Contaminant Levels for Radionuclides**. 40 CFR 141.66 is incorporated by reference. (7-1-24)

**05. Maximum Contaminant Levels for Microbiological Contaminants**. 40 CFR 141.63 is incorporated by reference. (7-1-24)

**06. Maximum Contaminant Levels for Disinfection Byproducts**. 40 CFR 141.64 is incorporated by reference. (7-1-24)

**07. Maximum Residual Disinfectant Levels**. 40 CFR 141.65 is incorporated by reference. (7-1-24)

**08. Maximum Contaminant Levels for Per- and Polyfluoroalkyl Substances (PFAS)**. 40 CFR 141.61(c)(2) is incorporated by reference. ( )

**051. -- 099. (RESERVED)**

**100. MONITORING AND ANALYTICAL REQUIREMENTS.**
40 CFR Part 141, Subpart C, is incorporated by reference. (7-1-24)

**01. Total Coliform Sampling and Analytical Requirements**. The Total Coliform Rule, 40 CFR 141.21, is incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). (7-1-24)

**02. Turbidity Sampling and Analytical Requirements**. 40 CFR 141.22 is incorporated by reference.

(7-1-24)

**03. Inorganic Chemical Sampling and Analytical Requirements**. 40 CFR 141.23 is incorporated by reference. (7-1-24)

**04. Organic Chemicals, Sampling and Analytical Requirements**. 40 CFR 141.24 is incorporated by reference. (7-1-24)

**05. Analytical Methods for Radioactivity**. 40 CFR 141.25 is incorporated by reference. (7-1-24)

**06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems**. 40CFR 141.26 is incorporated by reference. (7-1-24)

**07. Alternate Analytical Techniques**. 40 CFR 141.27 is incorporated by reference. (7-1-24)

**08. Approved Laboratories**. 40 CFR 141.28 and 141.852(b) are incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, must be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department: (7-1-24)

**a.** pH; (7-1-24)

**b.** Turbidity (Nephelometric method only); (7-1-24)

**c.** Daily analysis for fluoride; (7-1-24)

**d.** Temperature; (7-1-24)

**e.** Disinfectant residuals, except ozone, will be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.d.; (7-1-24)

**f.** Alkalinity; (7-1-24)

**g.** Calcium; (7-1-24)

**h.** Conductivity; (7-1-24)

**i.** Silica; and (7-1-24)

**j.** Orthophosphate. (7-1-24)

**09. Monitoring of Consecutive Water Systems**. 40 CFR 141.29 is incorporated by reference. (7-1-24)

**10. Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors**. 40 CFR Part 141, Subpart L, is incorporated by reference. (7-1-24)

**11. Monitoring**. The department may alter the monitoring requirements specified in these rules if the department determines that such alteration is necessary to adequately assess the level of contamination. (7-1-24)

**12. Special Monitoring for Sodium**. 40 CFR 141.41 is incorporated by reference. (7-1-24)

**13. Special Monitoring for Corrosivity Characteristics**. 40 CFR 141.42 is incorporated by reference. (7-1-24)

**14. Monitoring & Analytical Requirements for Per- and Polyfluoroalkyl Substances (PFAS)**. 40

CFR 141.901 and 141.902 are incorporated by reference. ( )

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

**150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.**

**01. Reporting Requirements**. 40 CFR 141.31 is incorporated by reference. (7-1-24)

**02. Public Notification of Drinking Water Violations**. 40 CFR Part 141, Subpart Q is incorporated by reference. (7-1-24)

**03. Record Maintenance**. 40 CFR 141.33 is incorporated by reference. (7-1-24)

**04. Reporting for Unregulated Contaminant Monitoring Results**. 40 CFR 141.35 is incorporated by reference. (7-1-24)

**05. Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule**. 40 CFR 141.175 is incorporated by reference. (7-1-24)

**06. Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule**. 40 CFR 141.134 is incorporated by reference. (7-1-24)

**07. Reporting and Record Keeping Requirements for the Revised Total Coliform Rule**. 40 CFR 141.861 is incorporated by reference. (7-1-24)

**08. Public Notification**. The Department may require the owner of a PWS that has been disapproved to notify the public. The manner, content, and timing of this notification will be determined by the Department. This is in addition to any provisions set forth in Section 150 that may also apply. (7-1-24)

**09. Public Notification for Low System Pressure**. (7-1-24)

**a.** During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier must notify the affected customers if the water is not safe for consumption. (7-1-24)

**b.** During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and notify customers that the water is safe for consumption. (7-1-24)

**10. Reporting and Record Keeping Requirements for Per- and Polyfluoroalkyl Substances (PFAS)**. 40 CFR 141.904 is incorporated by reference. ( )

*(BREAK IN CONTINUITY OF SECTIONS)*

**351. CONTROL OF PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS).**
40 CFR 141 Subpart Z is incorporated by reference. ( )

**35~~1~~2. -- 399. (RESERVED)**

*(BREAK IN CONTINUITY OF SECTIONS)*

**510. SITING AND CONSTRUCTION OF WELLS.**
Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a PWS served by one (1) or more wells must ensure that the following requirements are met: (7-1-24)

**01. Site Approval**. Prior to drilling, the site of a PWS well must be approved in writing by the Department. A well site evaluation report must be submitted prior to or concurrent with the PER for the well. The well site evaluation must take into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (7-1-24)

**a.** An evaluation of the quality of anticipated groundwater. (7-1-24)

**b.** Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (7-1-24)

**c.** An estimate of hydrologic and geologic properties of each aquifer and confining layers. (7-1-24)

**d.** Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. (7-1-24)

**e.** Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (7-1-24)

**f.** Description of potential sources of contamination including, but not limited to, sewers and sewage treatment/disposal facilities, highways, railroads, landfills, outcroppings of consolidated water-bearing formations, chemical facilities, waste disposal wells, and agricultural uses within five hundred (500) feet of the well site.(7-1-24)

**02. Location**. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. Each well must be staked by the design engineer or licensed professional geologist prior to drilling and meet the following minimum distances:

| Minimum Distances from a Public Water System Well | |
|---|---|
| Frost free hydrant | 5 feet |
| Property line | 50 feet |
| Gravity wastewater line | 50 feet |
| Any potential source of contamination | 50 feet |
| Pressure wastewater line | 100 feet |
| Class A Municipal Reclaimed Wastewater Pressure distribution line | 50 feet |
| Individual home septic tank | 100 feet |
| Individual home disposal field | 100 feet |
| Individual home seepage pit | 100 feet |
| Privies | 100 feet |
| Livestock | 50 feet |
| Drainfield - standard subsurface disposal module | 100 feet |

| Minimum Distances from a Public Water System Well | |
|---|---|
| Absorption module - large soil absorption system | 150 - 300 feet, see IDAPA 58.01.03 |
| Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances | 50 feet |
| Storm water facilities disposing storm water originating off the well lot | 50 feet |
| Municipal or industrial wastewater treatment plant | 500 feet |
| Reclamation and reuse of municipal and industrial wastewater sites | See IDAPA 58.01.17 |
| Biosolids application site | 1,000 feet |

(7-1-24)

**03. Construction Standards**. In addition to meeting the requirements of these rules, all wells must be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells must comply with the drilling permit requirements of Section 42-235, Idaho Code. (7-1-24)

**a.** Casing for steel pipe must meet the following requirements:

| STEEL PIPE | | | | | |
|---|---|---|---|---|---|
| | DIAMETER (inches) | | THICKNESS (inches) | WEIGHT PER FOOT (pounds) | |
| SIZE | External | Internal | | Plain Ends (calculated) | With Threads and Couplings (nominal) |
| 6 (id) | 6.625 | 6.065 | 0.280 | 18.97 | 19.18 |
| 8 | 8.625 | 7.981 | 0.322 | 28.55 | 29.35 |
| 10 | 10.750 | 10.020 | 0.365 | 40.48 | 41.85 |
| 12 | 12.750 | 12.000 | 0.375 | 49.56 | 51.15 |
| 14 (od) | 14.000 | 13.250 | 0.375 | 54.57 | 57.00 |
| 16 | 16.000 | 15.250 | 0.375 | 62.58 | |
| 18 | 18.000 | 17.250 | 0.375 | 70.59 | |
| 20 | 20.000 | 19.250 | 0.500 | 78.60 | |
| 22 | 22.000 | 21.000 | 0.500 | 114.81 | |
| 24 | 24.000 | 23.000 | 0.500 | 125.49 | |
| 26 | 26.000 | 25.000 | 0.500 | 136.17 | |
| 28 | 28.000 | 27.000 | 0.500 | 146.85 | |
| 30 | 30.000 | 29.000 | 0.500 | 157.53 | |

| STEEL PIPE | | | | | |
|---|---|---|---|---|---|
| | DIAMETER (inches) | | THICKNESS (inches) | WEIGHT PER FOOT (pounds) | |
| SIZE | External | Internal | | Plain Ends (calculated) | With Threads and Couplings (nominal) |
| 32 | 32.000 | 31.000 | 0.500 | 168.21 | |
| 34 | 34.000 | 33.000 | 0.500 | 178.89 | |
| 36 | 36.000 | 35.000 | 0.500 | 189.57 | |

* id = inside diameter
* od = outside diameter (7-1-24)

**b.** The use of plastic well casing for PWS wells may be considered on a case-by-case basis. Plastic casing must meet or exceed ASTM Standard F480, current edition, and ANSI/NSF Standard 61. Plastic casing must also meet the following requirements: (7-1-24)

i. Have a minimum wall thickness equivalent to standard dimension ratio 21. However, diameters of 8 inches or greater or deep wells may require greater thickness to meet collapse strength requirements; (7-1-24)

ii. Must not be used at sites where permeation by hydrocarbons or degradation may occur; (7-1-24)

iii. Must be assembled using coupling or solvent welded joints. All coupling and solvents must meet ANSI/NSF Standard 14, ASTM F480, or similar requirements; and (7-1-24)

iv. Must not be driven. (7-1-24)

**c.** PWS wells must have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (7-1-24)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (7-1-24)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (7-1-24)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (7-1-24)

**d.** Specifications must include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (7-1-24)

**e.** Geological data must be collected at each pronounced change in formation and ~~shall be~~ recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. ~~(7-1-24)~~( )

**f.** The owner of each well must retain all records pertaining to each well until the well has been

properly abandoned. (7-1-24)

**g.** Wells with intake screens must: (7-1-24)

i. Be constructed of materials resistant to damage by chemical action of groundwater or cleaning operations. (7-1-24)

ii. Have openings based on sieve analysis of formation, of gravel pack materials, or both. (7-1-24)

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point one (0.1) feet per second, or as otherwise approved by the Department. (7-1-24)

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it must be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (7-1-24)

**h.** Permanent well casing must be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b., or by the Rules of the Idaho Department of Water Resources, whichever is greater. All casing identified in plans and specifications as temporary casing must be removed prior to well completion. (7-1-24)

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, must be used for one and one-half (1 ½) inch annular space. Additives may be used to increase fluidity and are subject to approval by the Department and the Idaho Department of Water Resources on a case-by-case basis. (7-1-24)

ii. Bentonite grout must have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout ~~shall~~ must not contain weighting agents to increase solids content~~. Bentonite grout must~~ and not be used above the water table. All bentonite grout must be installed by positive displacement from the bottom up through a tremmie or float shoe. ~~(7-1-24)~~( )

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing will be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite must be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet will require an annulus of at least three (3) inches on all sides of the casing, or as approved by the Department and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

v. All chip bentonite seals installed through water must only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water must be: (7-1-24)

(1) Installed in accordance with manufacturer's specifications; or (7-1-24)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (7-1-24)

(3) Installed using coated pellets to retard hydration if approved by the Department and the Idaho Department of Water Resources. (7-1-24)

vi. Concrete may be approved on a case-by-case basis by the Department and the Idaho Department of Water Resources. Upon such approval, the approved method must use a six (6) sack minus one-half (1/2) inch Portland cement concrete and must be installed by positive displacement from the bottom up through a tremmie pipe. (7-1-24)

**04. Disinfection**. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Department of Water Resources. This applies to new well construction and repair of existing wells. (7-1-24)

**05. Well Completion Report**. Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the PWS to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report must bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (7-1-24)

**a.** A copy of all well logs; (7-1-24)

**b.** Results of test pumping, as specified in Subsection 510.06; (7-1-24)

**c.** As constructed plans showing at least the following: (7-1-24)

i. Annular seal, including depth and sealant material used and method of application; (7-1-24)

ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (7-1-24)

iii. Recommended pump location. (7-1-24)

**d.** Other information as may be specified by the Department. (7-1-24)

**e.** Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. (7-1-24)

i. Community systems must submit results of analysis for total coliform, inorganic ~~chemical contaminants,~~ and organic chemicals contaminants, ~~and~~ radionuclide contaminants, and Per- and Polyfluoroalkyl Substances (PFAS) contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, ~~and~~ 100.06, and 100.14, unless analysis is waived pursuant to Subsection 100.07. ~~(7-1-24)~~( )

ii. Non-transient Non-community systems must submit results of analysis for total coliform, ~~and~~ inorganic and organic chemical contaminants, and Per- and Polyfluoroalkyl Substances (PFAS) contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, and 100.14 unless analysis is waived pursuant to Subsection 100.07. ~~(7-1-24)~~( )

iii. Transient Non-community systems must submit results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (7-1-24)

**06. Test Pumping**. Upon completion of a groundwater source, test pumping must be conducted in accordance with the following procedures to meet the specified requirements: (7-1-24)

**a.** The well must be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test.

Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the PWS must be re-evaluated and submitted to the Department for approval. (7-1-24)

**b.** Upon completion of well development, the well must be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well may not be more than five (5) parts per million. Sand production must be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well must be screened gravel packed, or re-developed. (7-1-24)

**c.** The following data must be provided: (7-1-24)

i. Static water level and stabilized drawdown; (7-1-24)

ii. Well yield in ~~gpm~~ gallons per minute and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; ~~(7-1-24)~~( )

iii. Water level in the well recorded at regular intervals during pumping; (7-1-24)

iv. Profile of water level recovery from the pumping level projected to the original static water level. (7-1-24)

v. Depth at which the test pump was positioned in the well; (7-1-24)

vi. Test pump capacity and head characteristics; (7-1-24)

vii. Sand production data. (7-1-24)

viii. Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term yield, and boundary conditions affecting drawdown. (7-1-24)

**d.** The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine PWS operations. (7-1-24)

**e.** Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site-specific investigations that include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. (7-1-24)

**07. Conversion of Non-Public Water System Wells for Public Water System Use**. Any existing well constructed for use other than as a PWS source may be considered for use as a PWS source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health, and that both the quantity and quality of water produced by the well meet PWS standards set forth in these rules. (7-1-24)

**08. Monitoring Wells**. If monitoring (observation) wells are used and are intended to remain in service after completion of the water supply well, the observation wells must be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials in accordance with the "Well Construction Standard Rules," IDAPA 37.03.09. (7-1-24)

**09. Well Abandonment**. Well decommissioning (abandonment) must be performed in accordance with Department of Water Resources requirements set forth in IDAPA 37.03.09, "Well Construction Standard Rules. (7-1-24)

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

## DOCKET NO. 58-0114-2401 (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. This action is authorized by Sections 39-105, 39-107, 39-119, and 39-175C, 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 September 20, 2024. If no such written request is received, a public hearing will not be held. Three public meetings were held during the negotiated rulemaking process.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

In this rulemaking, DEQ proposes the consolidation of environmental fees into one chapter in an effort to streamline access to fee schedules and to provide a single stop for the regulated community to view applicable fees. Phase one is consolidation of fees applicable to wastewater treatment facilities and includes the following proposals.

New Section 170, IPDES and Reuse Permit Fee Schedule: This proposal moves the IPDES permit fee schedule language currently in Section 110 of 58.01.25, Idaho Pollutant Discharge Elimination System Rules, to 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services. Section 170 also includes a proposal for fees associated with DEQ's recycled water program. DEQ evaluated the current number of recycled water permits and the workload associated with providing permits and compliance assistance for these facilities and determined that a minor fee is necessary to offset the costs to the state associated with this effort. During negotiated rulemaking, DEQ presented three different fee schedule scenarios and requested stakeholder input. After consideration of meeting discussions and comments received, DEQ included the fixed annual cost scenario which takes into account the specific counts of each facility type, aiming to distribute the financial burden equitably while ensuring sufficient funding for program operations and development.

Update Section 110, Subsurface Sewage Disposal: This proposal lists fees intended as minimums for specific permit types - Subsurface Sewage Disposal System Permits, Subsurface Sewage Disposal System Pumper Permits, and Subsurface Sewage Disposal System Installer's Registration Permits.

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 adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

**FEE SUMMARY:** This proposed rule consolidates environmental fees into one chapter in an effort to streamline access to fee schedules and to provide a single stop for the regulated community to view applicable fees and includes: 1) moving the IPDES permit fee schedule language currently in Section 110 of 58.01.25, Idaho Pollutant Discharge Elimination System Rules, to 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services; 2) fees associated with DEQ's recycled water program; and 3) an update that lists subsurface sewage disposal permit fees intended as minimums for specific permit types. The fees are authorized by Idaho Code §§ 39-119 and 39-175C.

**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 conducted pursuant to Section 67-5220, Idaho Code. On April 3, 2024, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/environmental-fees-docket-no-58-0114-2401/.

**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 rulemaking is administrative in nature and proposes to update long-standing administrative rules. The portion of the rule relating to IPDES permit fees does not regulate activities not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations. The remaining portions of the proposed rule regulate activities not regulated by the federal government.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact Mary Anne Nelson at mary.anne.nelson@deq.idaho.gov or (208) 373-0291.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 4, 2024. Submit written comments to:

Mary Anne Nelson
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
mary.anne.nelson@deq.idaho.gov

Dated this 4th day of September, 2024

Janeena White
Senior Operations Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0151
Janeena.White@deq.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 58-0114-2401**
**(ZBR Chapter Rewrite)**

## 58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

**000. LEGAL AUTHORITY.**
~~Pursuant to~~ Sections 39-105, 39-107~~,~~ ~~and~~ 39-119, and 39-175C, Idaho Code~~.~~, ~~the Board of Environmental Quality is authorized to promulgate rules establishing reasonable fees to be charged and collected for any service rendered by the Department of Environmental Quality.~~ ~~(3-24-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

**~~01.~~ ~~Title~~**. ~~The rules are titled IDAPA 58.01.14, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services."~~ ~~(3-24-22)~~

**~~02.~~ ~~Scope~~**. ~~These~~ These rules establish reasonable fees for environmental operating permits, licenses, inspection services and waiver application processing rendered by the Department of Environmental Quality or its designees. ~~(3-24-22)~~( )

**~~002. WRITTEN INTERPRETATIONS.~~**
~~In accordance with Section 67-5201(19)(b)(iv), any written statements pertaining to the interpretation of these rules will be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.~~ ~~(3-24-22)~~

**00~~3~~2. ADMINISTRATIVE APPEALS.**
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-24-22)

**~~004. INCORPORATION BY REFERENCE.~~**
~~These rules do not contain documents incorporated by reference.~~ ~~(3-24-22)~~

**~~005. OFFICE—OFFICE HOURS—MAILING ADDRESS AND STREET ADDRESS.~~**
~~The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday.~~ ~~(3-24-22)~~

**~~006. CONFIDENTIALITY OF RECORDS.~~**
~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality."~~ ~~(3-24-22)~~

**00~~7~~3. DEFINITIONS.**

**01.** **Board**. The Idaho Board of Environmental Quality. (3-24-22)

**02.** **De minimis**. A type of reuse permit issued to small-scale or low-risk recycled water reuse activities that are deemed to pose minimal risk to public health or the environment in the associated permit staff analysis. De minimis permits typically involve limited analysis, monitoring, and reporting obligations due to low-risk of activity. ( )

**0~~2~~3.** **Department**. The Idaho Department of Environmental Quality or its designee. (3-24-22)

**04.** **Equivalent Dwelling Unit (EDU)**. A measure where one (1) EDU is equivalent to wastewater generated from one (1) single-family residence. For assessing fees associated with publicly or privately owned domestic sewage treatment, the number of EDUs is calculated as the population served divided by the average household size as defined in the most recent US Census Bureau data (for that municipality, county, or average number of persons per household for the state of Idaho). For fees associated with industrial wastewater treatment owned by a municipality, EDUs are calculated according to the definition of EDU in IDAPA 58.01.16, "Wastewater Rules." ( )

**05.** **Major Facility**. ( )

**a.** A publicly or privately owned treatment works with a design flow equal to or greater than one million gallons per day (1 MGD), or serves a population of ten thousand (10,000) or more, or causes significant water quality impacts; or ( )

**b.** A non-municipal facility that equals or exceeds the eighty (80) point accumulation described in the Score Summary of the NPDES Non-municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent. ( )

**03. Director**. The Director of the Idaho Department of Environmental Quality or his designee. (3-24-22)

**0084. -- 099. (RESERVED)**

**100. ENVIRONMENTAL FEES.**
The fees specified in Sections 101 through 199 shall be charged for the following environmental services rendered by the Department or its designees. Fees for services rendered by designees that are equivalent or greater than the fees listed in Sections 1010 through 1960 may be adopted by the district health departments or local government those designees and are intended to cover the cost of maintaining an adequate permitting program. Fees should be formulated consistent with these rules. The fees are to be paid by the party receiving the services to the Department or designee performing the service, in the time, place and manner specified by the performing entity.
(3-24-22)( )

**101. -- 109. (RESERVED)**

**110. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PERMIT.**
Fees listed here are intended as minimum fees for specific permit types. Designees may adopt different fees through their governing board, must have their fee schedules published online in an easy to find and searchable manner, and should use the following criteria. For those services rendered in the process of issuing installation permits for individual and subsurface sewage disposal systems (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the following fees apply: (3-24-22)( )

**01. Subsurface Sewage Disposal System Permit**. Base the fee calculation on: ( )

**01a. Individual Households or Buildings**. For individual households or buildings, if the individual and subsurface sewage disposal system is a new installation or a replacement or expansion of an existing system, the fee shall be ninety dollars ($90)The proposed daily wastewater flow;. (3-24-22)( )

**02b. Multiple Households or Buildings**. For individual and subsurface sewage disposal systems serving more than one (1) household or building in any combination, the fee shall be ninety dollars ($90) plus ten dollars ($10) per each household or per each two hundred fifty (250) gallons of flow from buildings.The number of proposed systems; (3-24-22)( )

**c.** The number of structures to be connected to the proposed system; ( )

**d.** The county where the proposed system is located; ( )

**e.** Whether the proposed system is a standard, basic alternative, or complex alternative design; or ( )

**f.** Whether the proposed system is a new, expansion of an existing system, or a repair or replacement, of a failing system. ( )

**02. Subsurface Sewage Disposal System Pumper Permit**. The fee is an annual fee and determined based on: ( )

**a.** The amount of pumping vehicles per owner or business in service each year; and ( )

**b.** The county where the business is located. ( )

**03. Subsurface Sewage Disposal System Installer's Registration Permit**. The fee is an annual fee and calculated based on: ( )

**a.** Whether the applicant will install standard, basic alternative, or complex alternative systems; and ( )

**b.** The county where the business is located. ( )

**04. Fees**. Minimum fees for services rendered include but are not limited to the following:

| Item | Fee |
|---|---|
| Sewage Disposal Permit: Basic or Complex System | $400 |
| Sewage Disposal Permit: Large Soil Absorption System or Central System | $1,000 |
| Sewage Disposal Permit: Tank Only | $300 |
| Sewage Disposal Permit Renewal | $40 |
| Installers Registration or Service Provider Certification: | |
| Basic (annual) | $50 |
| Complex (annual) | $100 |
| Pumper Truck License (annual) | $40 |
| Pumper Additional Truck Fee (per truck annually) | $20 |

( )

~~111. -- 114. (RESERVED)~~

~~115. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PUMPER PERMIT.~~
~~For those services rendered in the process of issuing permits to persons operating individual and subsurface sewage disposal system pumping equipment (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the fee shall be forty dollars ($40) plus ten dollars ($10) for each tank truck or tank per annum.~~ ~~(3-24-22)~~

~~116. -- 119. (RESERVED)~~

~~120. SUBSURFACE SEWAGE DISPOSAL SYSTEM INSTALLER'S REGISTRATION PERMIT.~~
~~For those services rendered in the process of issuing Installer's Registration Permits (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the fee shall be fifty dollars ($50) per annum for a standard and basic alternative system installer's registration permit and one hundred dollars ($100) per annum for a standard, basic and complex alternative system installer's registration permit.~~ ~~(3-24-22)~~

**1~~21~~11. -- 149. (RESERVED)**

**150. PARCEL SURVEY.**
For those services rendered in evaluating existing water supply or sewage disposal systems when such evaluation is a

condition for the sale of real property, the fee ~~shall be~~ is sixty dollars ($60) excluding laboratory services. ~~(3-24-22)~~( )

**151. -- 159. (RESERVED)**

**160. SANITARY RESTRICTION ADMINISTRATION.**
For those services rendered in the administration of sanitary restrictions, ~~pursuant to Section 50-1326, Idaho Code,~~ the following fees apply: ~~(3-24-22)~~( )

**01. Subdivisions or Plats Proposing Individual and Subsurface Sewage Disposal System Discharge to Subsurface.** ~~For subdivisions or plats for which sewage treatment and disposal systems are designed to discharge to the subsurface, t~~ The fee ~~shall be~~ is one hundred dollars ($100) plus twenty dollars ($20) per lot. ~~(3-24-22)~~( )

**02. Subdivisions or Plats Proposing Other Than Individual and Subsurface Sewage Disposal System Discharge to Subsurface.** ~~For subdivisions or plats for which sewage treatment and disposal systems are not designed to discharge to the subsurface, t~~ The fee ~~shall be~~ is twenty-five dollars ($25). ~~(3-24-22)~~( )

**161. -- ~~899~~169. (RESERVED)**

**170. IPDES AND REUSE PERMIT FEE SCHEDULE.**

**01. IPDES Fee Schedule.** ( )

**a.** Publicly and privately owned treatment works, and other dischargers designated by the Department (IDAPA 58.01.25.105.11.a.), must pay an annual fee based on the number of EDUs. The fee is $1.74 per EDU. EDUs and the appropriate annual fee will be calculated according to the definition of EDUs in IDAPA 58.01.14.003 by the following: ( )

i. The Department calculates facility EDUs; or ( )

ii. Existing facilities may annually report to the Department the number of EDUs served; or ( )

iii. New facilities may report to the Department the number of EDUs to be served, based on the facility planning design as part of the IPDES permit application. ( )

**b.** Other permitted IPDES dischargers must pay an annual fee, an application fee, or both according to:

| Permit Type | Application | Annual |
|---|---|---|
| Non-POTW Individual Permits | - | - |
| Major | $0 | $13,000 |
| Minor | $0 | $4,000 |
| Storm Water General Permits | - | - |
| Construction (CGP) | - | - |
| 1-10 acres[1] | $200 | $0 |
| >10-50 acres | $400 | $75 |
| >50-100 acres | $750 | $100 |

| Permit Type | Application | Annual |
|---|---|---|
| >100-500 acres | $1,000 | $400 |
| >500 acres | $1,250 | $400 |
| Low Erosivity Waiver (CGP) | $125 | $0 |
| Industrial (MSGP) Permits | $1,500 | $1,000 |
| Cert. of No Exposure (MSGP) | $250 | $100 |
| Other General Permits | $0 | $0 |

[1]This includes notices of intent for construction that will disturb one or more acres of land or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land. ( )

**02. Reuse Permit Fee Schedule**. ( )

**a.** Permitted municipal reuse facilities must pay an annual fee according to population from the most recent 10-year US Census Bureau data:

| Type | Fee |
|---|---|
| De minimis [a] | $500 |
| Industrial [a] | $3,000 |
| Municipal Over 15,000 people | $3,000 |
| Municipal Between 1,000 and 15,000 people | $1,000 |
| Municipal Under 1,000 people | $500 |
| Private Domestic or Other [a] | $750 |

[a] De minimis, industrial, and private domestic or other recycled water reuse permits are assessed a flat fee not based on US Census Bureau data. ( )

**b.** Reuse general permits will be charged a flat fee of $100 for processing applications. ( )

**03. Fee Assessment**. ( )

**a.** An annual fee assessment will be generated for each permitted facility for which an annual fee is required under Subsection170.01 and 170.02. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 each year. ( )

**b.** Application Fees and Annual Fees. ( )

i. Application fees, as identified in Subsection 170.01.b., are assessed upon application submittal for coverage under an individual permit or notice of intent for coverage or waiver under a general permit. ( )

ii. Owners or operators of multi-year storm water facilities or construction projects are subject to annual fees that will be assessed in the year (October through September) following the receipt of the application or notice of intent for coverage. ( )

**c.** Assessment of annual fees will consider the number of months a permittee was covered under either a general or an individual permit in a year (October through September of each year). If the permittee was covered for less than a full twelve (12) months, the assessed fee will be pro-rated to account for less than a full year's coverage under the permit. ( )

**d.** Permittees with both an IPDES and reuse permit will have the reuse permit fee waived. ( )

**04. Billing**. For permitted facilities subject to an annual fee, the annual fee will be assessed, and the Department will send a statement on or before October 1 of each year. The Department will also assess and send annual fee statements when permit coverage is terminated. ( )

**05. Payment**. ( )

**a.** Payment of the annual fee is due on December 31, unless it is a Saturday, Sunday, or legal holiday, in which event the payment is due on the successive business day. Payment of annual fees for terminated permit coverage is due at the time of termination. ( )

**b.** Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. The Department will not authorize permit coverage until the application fee is paid. ( )

**c.** A publicly owned treatment works (POTW) may request, in writing, monthly or quarterly installment payments upon receipt of the billing statement. The Department will approve or deny the request and inform the POTW within ten (10) business days. ( )

**06. Delinquent Unpaid Fees**. A permittee covered under a general or individual permit will be delinquent in payment if the Department does not receive the assessed annual fee by January 1; or if the permittee opted to pay monthly or quarterly, its monthly or quarterly installment is not received by the Department by the last day of the month the payment is due. ( )

**07. Suspension of Services and Disapproval Designation**. Permittees delinquent in payment of fees assessed under Subsections 170.01 and 170.02: ( )

**a.** After ninety (90) days, the Department will suspend all technical services it provided. The permittee will receive a warning letter identifying administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. ( )

**b.** After one hundred and eighty (180) days, the Department will consider the permittee in non-compliance with permit conditions and these rules, and subject to provisions described in IDAPA 58.01.25.500 (Enforcement) and Section 39-108, Idaho Code. ( )

**08. Reinstatement of Suspended Services and Approval Status**. Permittees for which delinquency of fee payment under Subsection 170.07 resulted in the suspension of technical services, determination of non-compliance of permit condition, or both, the continuation of technical services, determination of compliance based on payment of fee, or both, will occur upon payment of delinquent annual fee assessments. ( )

**09. Enforcement Action**. Nothing in Section 170 waives the Department's right to undertake a non-fee-related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code. ( )

**10. Responsibility to Comply**. Subsection 170.07 does not relieve a permittee from its obligation to comply with the state and federal statutes, rules, regulations, permits, or orders. ( )

**171. -- 899. (RESERVED)**

**900. WAIVER OF FEES.**
Upon written application to the ~~Director of the~~ Department ~~of Environmental Quality~~, a waiver of a specific fee may

be granted to an applicant who is required by these rules to pay such a fee. ~~(3-24-22)~~( )

**01. Determination of Good Cause**. Good cause for such a waiver must be shown before it ~~shall~~ will be granted by the ~~Director~~ Department. Good cause may include hardship or extenuating circumstances, as determined by the ~~Director~~ Department. ~~(3-24-22)~~( )

**02. Duration of Waiver**. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. (3-24-22)

**03. Limitations**. Granting of a waiver ~~shall~~ will not be considered as precedent or be given any force or effect in any other proceeding. ~~(3-24-22)~~( )

**901. -- 999. (RESERVED)**

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR DRINKING WATER AND WASTEWATER FACILITIES

## DOCKET NO. 58-0122-2401 (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. This action is authorized by Chapters 1 and 36, Title 39, 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 September 18, 2024. If no such written request is received, a public hearing will not be held. Two public scoping meets were held before the negotiated rulemaking process and three public meetings were held during the negotiated rulemaking process.

**DESCRIPTIVE SUMMARY:** DEQ initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.htm. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

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 adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

**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: Not applicable.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On April 3, 2024, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at https://www.deq.idaho.gov/drinking-water-and-wastewater-grants-docket-no-58-0122-2401/.

**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 proposed rule is an amendment to a long-standing rule that regulates an activity not regulated by the federal government and has previously been approved as meeting the requirements of Section 39-107D, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact MaryAnna Peavey at maryanna.peavey@deq.idaho.gov, (208) 373-0122.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 25, 2024. Submit written comments to:

MaryAnna Peavey
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
maryanna.peavey@deq.idaho.gov

Dated this 4th day of September, 2024.

Janeena White
Senior Operations Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0151
janeena.white@deq.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0122-2401**
**(ZBR Chapter Rewrite)**

## 58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR DRINKING WATER AND WASTEWATER FACILITIES

**000. LEGAL AUTHORITY.**
~~The Idaho State Board of Environmental Quality, pursuant to authority granted in~~ Chapters 1 and 36, Title 39, Idaho Code~~, adopted the following rules for the administration of Drinking Water and Wastewater Planning Grant Programs in Idaho~~. ~~(3-31-22)~~( )

**001. ~~TITLE AND~~ SCOPE.**

**~~01.~~ ~~Title~~.** ~~These rules will be known and cited as Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities."~~ ~~(3-31-22)~~

**~~02.~~ ~~Scope~~.** ~~The provisions of t~~These rules ~~will~~ establish administrative procedures ~~and requirements~~ for establishing, implementing, and administering a state planning grant program providing financial assistance to qualifying entities to prepare a drinking water or wastewater facility planning document. ~~(3-31-22)~~( )

**002. (RESERVED)**

**003. ADMINISTRATIVE APPEALS.**
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-31-22)

**004. ~~INCORPORATION BY REFERENCE AND AVAILABILITY OF~~ REFERENCED MATERIAL.**

**~~01.~~ ~~Incorporation by Reference~~.** ~~These rules do not contain documents incorporated by reference.~~ ~~(3-31-22)~~

~~02. Availability of Referenced Material.~~ The "Customer Handbook Grants and Loans Program" (Handbook) is available at the Idaho Department of Environmental Quality, ~~Water Quality Division Loan Program~~ Drinking Water Protection and Finance Division, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or ~~www.deq.idaho.gov~~ http://www.deq.idaho.gov/SRF. ~~(3-31-22)~~( )

~~005. CONFIDENTIALITY.~~
~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality."~~ ~~(3-31-22)~~

~~006. POLICY.~~
~~It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water and Wastewater Grant Programs. The Drinking Water and Wastewater Grant Programs provide assistance to eligible public drinking water and wastewater systems for the planning of facilities to help ensure safe and adequate supplies of drinking water and appropriate processing and disposal of wastewater. It is the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects to facilitate the compliance of any eligible public drinking water system with national primary drinking water regulations applicable to the system, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq., and to administer the Wastewater Treatment Facility Grant Program to protect and enhance the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution in accordance with IDAPA 58.01.16, Wastewater Rules.~~ ~~(3-31-22)~~

~~007. SYSTEM ELIGIBILITY.~~

~~01. Eligible Drinking Water Systems. Community water systems and nonprofit noncommunity water systems.~~ ~~(3-31-22)~~

~~02. Eligible Wastewater Systems. Any county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof, having authority to collect, treat or dispose of wastewater.~~ ~~(3-31-22)~~

~~03. Systems Not Eligible. The following systems will not be considered eligible for project planning grants:~~ ~~(3-31-22)~~

~~a. Systems that do not have the financial capability to pay their non-grant share of a planning project.~~ ~~(3-31-22)~~

~~b. Systems delinquent in payment of the annual state drinking water fee, Idaho Pollutant Discharge Elimination System (IPDES) permit assessments or state revolving fund loan repayments.~~ ~~(3-31-22)~~

**00~~8~~5. -- 009. (RESERVED)**

**010. DEFINITIONS.**
~~For the purpose of the rules contained in this chapter, the following definitions apply:~~The terms "board," "department," "director," "person," and "state" have the meaning provided for those terms in Section 39-103, Idaho Code. ~~(3-31-22)~~( )

**01.** **Applicant**. Any qualifying entity making application for planning grant funds. (3-31-22)

~~02. Board. The Idaho Board of Environmental Quality.~~ ~~(3-31-22)~~

**0~~3~~2.** **Categorical Exclusion (CE)**. Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (3-31-22)

~~04. Collector Sewer. That portion of the wastewater treatment facility whose primary purpose is to~~

~~receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant.~~ ~~(3-31-22)~~

0~~5~~3. **Community Water System**. As defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ~~(3-31-22)~~( )

~~a. Serves at least fifteen (15) service connections used by year-round residents of the area served by the system; or~~ ~~(3-31-22)~~

~~b. Regularly serves at least twenty-five (25) year-round residents.~~ ~~(3-31-22)~~

~~06. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water.~~ ~~(3-31-22)~~

~~07. Department. The Idaho Department of Environmental Quality.~~ ~~(3-31-22)~~

~~08. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee.~~ ~~(3-31-22)~~

~~09. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system.~~ ~~(3-31-22)~~

~~10. Domestic Wastewater. Wastewater derived from public or private residences, business buildings or institutions and similar establishments and which contains water and human body wastes, specifically excreta and urine, along with such products designed to come in contact with excreta and urine in the practice of personal hygiene.~~ ~~(3-31-22)~~

~~11~~04. **Eligible Costs**. Costs which are necessary for planning. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs ~~shall~~ will be made by the Department pursuant to Section 032. ~~(3-31-22)~~( )

~~12~~05. **Environmental Impact Statement (EIS)**. A document prepared by the applicant when the Department determines that the proposed drinking water project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in the Handbook may be used as guidance when preparing the EIS. (3-31-22)

~~13~~06. **Environmental Information Document (EID)**. Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed drinking water or wastewater construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project ~~and ultimately determine if an environmental impact statement (EIS) is warranted~~. ~~(3-31-22)~~( )

~~14~~07. **Financial Capability**. The ability to raise and manage funds to provide the necessary resources for proper operation of the system. (3-31-22)

~~15~~08. **Finding of No Significant Impact (FONSI)**. A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an ~~environmental impact statement (~~ EIS~~)~~ will not be prepared. It ~~shall~~ will include the environmental ~~information document~~ assessment or a summary of it and will note any other environmental documents related to it. ~~(3-31-22)~~( )

~~16~~09. **Grant Recipient**. An applicant who has been awarded a grant. (3-31-22)

~~17. Handbook. "Customer Handbook Grants and Loans Program".~~ ~~(3-31-22)~~

**180. Idaho Pollutant Discharge Elimination System (IPDES)**. Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). (3-31-22)( )

**191. Ineligible Costs**. Costs which are not eligible for funding pursuant to these rules. (3-31-22)

**20. Interceptor Sewer**. That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (3-31-22)

**21. Maximum Contaminant Level (MCL)**. The maximum permissible level of a contaminant in water which is delivered to any user of a public drinking water system. (3-31-22)

**22. Managerial Capability**. The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (3-31-22)

**2312. Noncommunity Water System**. A public water system that is not a community water system As defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-31-22)( )

**24. Nondomestic Wastewater**. Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (3-31-22)

**2513. Nonprofit Noncommunity Water System**. A public drinking water system that is not a community water system and is governed by Section 501 of the Internal Revenue Code and includes, but is not limited to, state agencies, municipalities and nonprofit organizations such as churches and schools. (3-31-22)

**26. Nontransient Noncommunity Water System**. A public drinking water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (3-31-22)

**27. Operation and Maintenance Manual**. A guidance and training manual delineating the optimum operation and maintenance of the facility or its components. (3-31-22)

**28. Person**. An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (3-31-22)

**2914. Planning Document**. A document which describes the condition of a public drinking water or wastewater system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall must be prepared by or under the responsible charge of an Idaho licensed professional engineer and bear the imprint of the engineer's seal. Requirements for planning documents prepared using grant funds are provided in Section 030 of these rules and in the Handbook. (3-31-22)( )

**3015. Point Source**. Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (3-31-22)

**31. Pollutant**. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (3-31-22)

**3216. Priority List**. A ranked list of proposed projects as described in Section 020. (3-31-22)( )

**3317. Public Drinking Water System/Public Water System/Water System**. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances,

~~if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system."~~ As defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ~~(3-31-22)~~( )

~~34~~18. **Qualifying Entity**. Any county, city, special service district, nonprofit or investor-owned corporation, or other governmental entity, or a combination thereof, which owns or operates a public drinking water system, irrigation system, or wastewater system. (3-31-22)

~~35. **Rehabilitation**. The repair or replacement of segments of drinking water facilities.~~ ~~(3-31-22)~~

~~36. **Reserve Capacity**. That portion of the system in the planned facilities to handle future drinking water demand.~~ ~~(3-31-22)~~

~~37. **Sewer Use Ordinance/Sewer Use Resolution**. An ordinance or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility.~~ ~~(3-31-22)~~

~~38. **State**. The state of Idaho.~~ ~~(3-31-22)~~

~~3~~19. **Suspension**. An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-31-22)

~~4~~20. **Sustainability**. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-31-22)

~~41. **Technical Capability**. The ability of the public drinking water or wastewater system to comply with existing and expected rules.~~ ~~(3-31-22)~~

~~4~~21. **Termination**. An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (3-31-22)

~~43. **User Charge System**. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required, and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the wastewater treatment facility.~~ ~~(3-31-22)~~

~~44~~22. **Wastewater**. ~~A combination of the liquid and water carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage.~~ As defined in IDAPA 58.01.16, "Wastewater Rules." ~~(3-31-22)~~( )

~~45~~23. **Wastewater ~~Treatment~~ Facility**. Any facility, including land, equipment, furnishings and appurtenances thereof, for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater or otherwise provide direct water quality benefits. This includ~~ing~~es the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems and land disposal systems. ~~(3-31-22)~~( )

~~46. **Water Treatment Plant**. That portion of the public drinking water system whose primary purpose is to remove contaminants.~~ ~~(3-31-22)~~

**011. -- 01~~9~~8. (RESERVED)**

**019. ELIGIBILITY.**

**01. Eligible Drinking Water Systems**. Community water systems and nonprofit noncommunity water systems. ( )

**02. Eligible Wastewater Systems**. Counties, cities, special service districts, other governmental entities, and nonprofit corporations with authority to collect, treat, or dispose of wastewater or otherwise provide direct water quality benefits. ( )

**03. Systems Not Eligible**. The following systems will not be considered eligible for project planning grants: ( )

**a.** Systems that do not have the financial capability to pay their non-grant share of a planning project; and ( )

**b.** Systems delinquent in payment of the annual state drinking water fee, IPDES permit assessments, or state revolving fund loan repayments. ( )

**020. PRIORITY RATING SYSTEM.**

~~Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Grant funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria and condition of the existing system.~~ ~~(3-31-22)~~

**01. Purpose**. A priority rating system ~~shall~~ will be utilized by the Department to annually allot available funds to projects determined eligible for funding assistance in accordance with these rules. ~~(3-31-22)~~( )

**02. Priority Rating for Drinking Water Systems**. The priority rating system ~~shall~~ will be based on a numerical point system. Priority criteria ~~shall~~ will contain the following points~~:~~. ~~(3-31-22)~~( )

**a.** Public Health Hazard. Any documented condition which creates, or may create, a danger to the consumer's health, which may include any one (1) or more of the following, may be awarded a maximum of one hundred (100) points: ~~(3-31-22)~~( )

i. ~~Documented u~~Unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic contaminates); ~~(3-31-22)~~( )

ii. ~~Documented u~~Unresolved violations of pressure requirements; ~~(3-31-22)~~( )

iii. ~~Documented r~~Reduction in source capacity that impacts the system's ability to reliably serve water; ~~(3-31-22)~~( )

iv. ~~Documented s~~Significant deficiencies (e.g., documented in a sanitary survey) in the physical system that is causing the system to not be able to reliably serve safe drinking water. ~~(3-31-22)~~( )

v. ~~Documented u~~Unregulated contaminants that have been shown to be a hazard to public health. ~~(3-31-22)~~( )

**b.** General Conditions of Existing Facilities. Points ~~shall~~ will be given based on deficiencies (which ~~would~~ may not constitute a public health hazard) for pumping, treating, storing, and delivering drinking water - up to sixty (60) points. ~~(3-31-22)~~( )

**c.** Sustainability ~~E~~efforts (e.g., prospective efforts at energy conservation, water conservation,

extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. ~~(3-31-22)~~( )

**d.** ~~Consent Order, Compliance Agreement Schedule, or Court Order. Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order~~Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies of the public drinking water system) - up to thirty (30) points. ~~(3-31-22)~~( )

**e.** Incentives. Bonus points ~~shall~~ will be awarded to systems that promote source water protection, conservation, ~~economy,~~ proper operation and maintenance, and monitoring - up to ten (10) points. ~~(3-31-22)~~( )

**f.** Affordability. Points ~~shall~~ will be given when current system user charges exceed state affordability guidelines - ~~ten (10)~~ up to fifty (50) points. ~~(3-31-22)~~( )

**03. Priority Rating for Wastewater Systems**. The priority rating system ~~shall~~ will be based on a numerical point system. Priority criteria ~~shall~~ will contain the following points. ~~(3-31-22)~~( )

~~**a.** Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department, or by a District Board of Health - one hundred fifty (150) points.~~ ~~(3-31-22)~~

~~**b**~~**a.** Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) – up to one hundred (100) points. (3-31-22)

~~**c**~~**b.** Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) – up to one hundred (100) points. (3-31-22)

~~**d**~~**c.** Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) – up to one hundred (100) points. (3-31-22)

~~**e**~~**d.** Preventing impacts to uses (nonpoint source pollution projects) – up to one hundred (100) points. (3-31-22)

~~**f**~~**e.** Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) – up to fifty (50) points. (3-31-22)

~~**g**~~**f.** Affordability (current system user charges exceed state affordability guidelines) – ~~ten~~ up to fifty (~~10~~50) points. ~~(3-31-22)~~( )

~~**04. Rating Forms**. Rating criteria for Subsections 020.02 and 020.03 is set forth in a rating form that is available at www.deq.idaho.gov.~~ ~~(3-31-22)~~

0~~5~~4. **Priority List**. A list ~~shall~~ will be developed from projects rated according to the priority rating system, submitted for public review and comment, and submitted to the Board for approval and adoption. ~~(3-31-22)~~( )

**a.** ~~**Priority Reevaluation.**~~ Whenever significant changes occur, which in the Department's judgment ~~would~~ affects the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. ~~(3-31-22)~~( )

**b.** ~~**Priority Target Date.**~~ An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed grant

application will be established. ~~(3-31-22)~~( )

**c.** ~~**Project Bypass.**~~ A project that does not or will not meet the ~~project target date or a Department schedule that allows for timely utilization of grant funds~~ priority target date for submission of a completed application may be bypassed, substituting in its place the next highest ranking project that is ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. ~~(3-31-22)~~( )

0~~6~~5. **Amendment of Priority List**. The ~~Director~~ Department may amend the ~~P~~priority ~~L~~list as set forth in Section 080 ~~of these rules~~. ~~(3-31-22)~~( )

**021. -- 029. (RESERVED)**

**030. PROJECT SCOPE AND FUNDING.**
Grant funds awarded under this program will be used entirely to prepare a planning document to identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq.~~;~~ or~~,~~ maintain compliance with IDAPA 58.01.16, "Wastewater Rules," and the federal Clean Water Act, 33 U.S.C. Sections 1381 et seq. The planning document must be approved by the Department. ~~(3-31-22)~~( )

**01. Planning Document**. (3-31-22)

**a.** A planning document ~~shall~~ must include all items ~~required by~~ listed in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 503.03 or 502.04 or IDAPA 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04, and project specific efforts committed to in the Letter of Interest submitted for the project. A planning document checklist can be found in the Handbook. ~~Should~~ If the grant recipient proceeds to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. ~~of these rules~~ will be ~~required~~ necessary prior to construction. ~~(3-31-22)~~( )

**b.** A planning document that is prepared anticipating the use of federal funds ~~shall~~ must include an environmental review ~~that~~ and will require the Department approval of both a technical draft and final planning document. ~~(3-31-22)~~( )

i. ~~The draft planning document shall include all items required by IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 502.04 or 503.03, as well as the following; or 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04~~ In addition to the provisions of Subsection 030.01.a., the technical draft planning document must include: ~~(3-31-22)~~( )

(1) Description of existing conditions for the proposed project area; (3-31-22)

(2) Description of future conditions for the proposed project area; (3-31-22)

(3) Development and initial screening of alternatives; and ~~(3-31-22)~~( )

(4) Development of an environmental review specified by the Department as described in Section 040. (3-31-22)

ii. The grant recipient must provide an opportunity for the public to comment on the technical draft planning document after alternatives have been developed and the Department has approved the technical draft planning document. In addition, the recipient must: ( )

(1) Provide documentation of the public notice, comment period, and at least one (1) public meeting within the jurisdiction of the grant recipient was held during the public comment period; ( )

(2) Present the technical draft planning document with an explanation of the alternatives identified; ( )

(3) Consider public comments received from those affected by the proposed project in evaluating and

selecting the cost effective and environmentally sound alternative; ( )

(4) Identify the selected alternative after the public meeting and comment period; and ( )

(5) Prepare the environmental documentation. ( )

~~ii~~iii. The final planning document ~~shall~~ must include all items required of the technical draft planning document as well as the following: ~~(3-31-22)~~( )

(1) Final ~~screening~~ evaluation of ~~principal~~ alternatives ~~and plan adoption~~ including documentation of public comment period and results; ~~(3-31-22)~~( )

(2) ~~S~~Description of the selected alternative, plan ~~description and~~ adoption, and implementation arrangements; ~~and~~ ~~(3-31-22)~~( )

(3) Relevant engineering data supporting the ~~final~~ selected alternative.; and ~~(3-31-22)~~( )

(4) Assessment of the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and energy conservation, with cost including construction, operation and maintenance, and replacement. (3-31-22)

~~iii. The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the grant recipient shall present the draft planning document with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared.~~ ~~(3-31-22)~~

**c.** The technical draft and final planning document ~~shall~~ must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ~~(3-31-22)~~( )

**d.** The technical draft and final planning documents must be reviewed and approved by the Department. ~~(3-31-22)~~( )

**e.** The planning period ~~shall~~ must be twenty (20) years for all facilities except for distribution and transmission systems which may be forty (40) years. Build-out conditions must also be considered for collection systems. ~~(3-31-22)~~( )

**02. Limitation on Funding Assistance**. The maximum grant funding provided in a state planning grant award ~~shall~~ will not exceed fifty percent (50%) of the total eligible costs for grants awarded. ~~(3-31-22)~~( )

**03. Professional Services**. The engineering firm retained to prepare the planning document must be selected based on qualifications in accordance with Section 67-2320, Idaho Code, and at a minimum is: ( )

**a.** A registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; ( )

**b.** Not debarred or otherwise prevented from providing services under another federal or state financial assistance program; and ( )

**c.** Covered by professional liability insurance in accordance with Subsection 050.05.d. ( )

**031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.**

**01. Submission of Application**. Those eligible systems which received high priority ranking ~~shall~~ will

be invited to ~~submit an application~~ apply. The applicant ~~shall~~ must submit to the Department, by the priority target date, a completed application ~~in~~ on a form prescribed by the Department. ~~(3-31-22)~~( )

**02. Application ~~Requirements~~ Contents**. Applications ~~shall~~ must contain the following documentation, as applicable: ~~(3-31-22)~~( )

**a.** An authorizing resolution passed by a majority of the governing body authorizing an elected official or officer of the qualifying entity to commit funding; ~~and~~ ~~(3-31-22)~~( )

**b.** Contracts for engineering services or other technical services and the description of costs and tasks set forth therein ~~shall~~ must be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 032; ~~and~~ ~~(3-31-22)~~( )

**c.** A ~~plan of study~~ scope of work describing the work tasks to be performed in the planning document, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; ~~and~~ ~~(3-31-22)~~( )

~~**d.** Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (3-31-22)~~

~~i. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (3-31-22)~~

~~ii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (3-31-22)~~

~~iii. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application; and (3-31-22)~~

~~e~~**d.** A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 032; ~~and~~ ~~(3-31-22)~~( )

~~f~~**e.** A demonstration that the obligation to pay the costs for which funding is requested, is the result or will be the result of the applicant's compliance with applicable requirements for competitive bidding ~~requirements~~ and ~~requirements for~~ professional service contracts, including without limitation, the ~~requirements~~ provisions set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code; ~~and~~ ~~(3-31-22)~~( )

~~g~~**f.** A statement regarding how the non-grant portion of the project will be funded; and (3-31-22)

~~h~~**g.** For incorporated nonprofit applicants only, Articles of Incorporation and ~~/or~~ Bylaws showing nonprofit and incorporated status according to Chapter 3, Title 30, Idaho Code. ~~(3-31-22)~~( )

**03. Determination of Completeness of Application**. Applications will be reviewed to determine whether they contain all of the information ~~required by~~ listed in Subsection 031.02. ~~(3-31-22)~~( )

**04. Notification Regarding Incompleteness of Application**. Written notification if an application is incomplete, including an explanation of missing documentation, will be sent to the applicant. (3-31-22)

**05. Reapplication for Grant**. The action of disapproving, recalling, or terminating a grant in no way precludes or limits ~~the former~~ an applicant from reapplying for another grant when the project deficiencies are resolved and project readiness is secured. ~~(3-31-22)~~( )

**032. DETERMINATION OF ELIGIBILITY OF COSTS.**
The Department will review the application, including ~~any~~ necessary contracts ~~required~~ to be submitted with the application, to determine whether the costs are eligible costs for funding. ~~(3-31-22)~~( )

**01. Eligible Costs**. Eligible costs are those determined by the Department to be: (3-31-22)

**a.** Necessary costs; (3-31-22)

**b.** Reasonable costs; and (3-31-22)

**c.** Costs that are not ineligible as described in Subsection 032.05. (3-31-22)

**02. Necessary Costs**. The Department will determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the ~~plan of study~~ scope of work for the planning document. ~~(3-31-22)~~( )

**03. Reasonable Costs**. Costs will be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable requirements for competitive bidding ~~requirements~~ and ~~requirements for~~ professional service contracts, including without limitation, the ~~requirements~~ provisions set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. ~~(3-31-22)~~( )

**04. Examples of Costs That May Be Eligible**. Examples of costs that may be eligible, if determined necessary, and reasonable ~~and not ineligible costs include~~: ~~(3-31-22)~~( )

**a.** Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary expenses such as salaries and expenses of a mayor; city council members; board; or a city, district or board attorney; (3-31-22)

**b.** Professional and consulting services, specifying costs of individual tasks. (3-31-22)

**c.** Engineering costs specifying costs of individual tasks, directly related to the planning of facilities including but not limited to the preparation of a planning document and environmental review ~~report~~; ~~(3-31-22)~~( )

**d.** Financial, technical and management capability analysis; (3-31-22)

**e.** Public participation for alternative selection; (3-31-22)

**f.** Certain direct and other costs as determined eligible by the Department; and (3-31-22)

**g.** Legal costs necessary to allow for the completion of the ~~facility plan~~ planning document. ~~(3-31-22)~~( )

**05. Ineligible Project Costs**. ~~C~~Examples of costs which are ineligible for funding include, but are not limited to: ~~(3-31-22)~~( )

**a.** Planning not directly related to the project; (3-31-22)

**b.** Personal injury compensation or damages arising out of the project; (3-31-22)

**c.** Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (3-31-22)

**d.** Costs outside the scope of the approved project; (3-31-22)

**e.** Ordinary operating expenses such as salaries and expenses of a mayor, city council members, city attorney, district or association personnel costs, and acquiring project funding; (3-31-22)

**f.** Preparation of a grant application; (3-31-22)

**g.** All costs related to assessment, defense and settlement of disputes~~, unless such costs are integral to the completion of the project~~; ~~(3-31-22)~~( )

**h.** Costs of supplying ~~required~~ permits or waivers; and ~~(3-31-22)~~( )

**i.** Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department in advance of incurring costs~~;~~. ~~(3-31-22)~~( )

**06. Notification Regarding Ineligible Costs**. Prior to providing a grant offer, the Department will notify the applicant that certain costs are not eligible for funding and the reasons for the Department's determination. ~~If such costs are included in the engineering contract, the Department will also provide notification to the engineer.~~ The applicant may provide the Department with additional information in response to the notice. ~~(3-31-22)~~( )

**07. Eligible Costs and the Grant Offer**. The grant offer will reflect those costs determined by the Department to be eligible costs. The grant offer, however, may include estimates of some eligible costs ~~that have not yet been set~~. Actual eligible costs may differ from ~~such~~ estimated costs set forth in the grant offer. In addition, grant disbursements may be increased or decreased if eligible costs are modified. ~~(3-31-22)~~( )

**033. -- 039. (RESERVED)**

**040. ENVIRONMENTAL REVIEW.**

**01. Environmental Documentation**. The grant recipient may complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in the Handbook. If the grant recipient prepares an environmental review, then the Department will be consulted at an early stage in the preparation of the planning document to determine the ~~required~~ necessary level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete at least one (1) of the following: ~~(3-31-22)~~( )

**a.** ~~Submit a request for~~ Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; ~~(3-31-22)~~( )

**b.** ~~Prepare an~~ Environmental Information Document (EID) in a format specified by the Department; or ~~(3-31-22)~~( )

**c.** ~~Prepare an~~ Environmental Impact Statement (EIS) in a format specified by the Department. ~~(3-31-22)~~( )

**02. ~~Categorical Exclusions~~CE**. ~~If the grant recipient requests a CE, t~~The Department will ~~review the request and, based upon the supporting documentation,~~ take one (1) of the following actions: ~~(3-31-22)~~( )

**a.** Determine if an action is consistent with categories eligible for exclusion whereupon the Department will issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative(s), the Department will publish a notice of CE in a local newspaper~~, following which the planning document can be approved~~; or ~~(3-31-22)~~( )

**b.** Determine if an action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If issuance of a CE is not appropriate, the Department will notify the grant recipient of the need to prepare an EID. (3-31-22)

**03. ~~Environmental Information Document Requirements~~EID**. When an EID is required, the grant recipient ~~shall~~ must prepare the EID in accordance with the following Department procedures: ~~(3-31-22)~~( )

**a.** Various laws and executive orders related to environmentally sensitive resources ~~shall~~ must be considered as the EID is prepared. Appropriate state and federal agencies ~~shall~~ must be consulted regarding these laws and executive orders. ~~(3-31-22)~~( )

**b.** A full range of relevant impacts, both direct and indirect, of the proposed project ~~shall~~ must be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that ~~shall~~ will cause irreversible or irretrievable commitment of resources. ~~(3-31-22)~~( )

**c.** The Department will review the draft EID and either request additional information about one (1) or more potential impacts, or will draft a "finding of no significant impact" (FONSI). (3-31-22)

**04.** ~~**Final Finding of No Significant Impact**~~**FONSI**. The Department will publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and ~~shall~~ will allow a minimum thirty (30) day public comment period. Following the ~~required~~ period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI ~~shall~~ will become final. The Department will assess the effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. ~~(3-31-22)~~( )

**05.** ~~**Environmental Impact Statement (**~~**EIS**~~**) Requirements**~~. If an EIS is required, the grant recipient ~~shall~~ must: ~~(3-31-22)~~( )

**a.** Contact all affected state agencies, and other interested parties, to determine the ~~required~~ scope of the document; ~~(3-31-22)~~( )

**b.** Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (3-31-22)

**c.** Conduct a public meeting which may be held in conjunction with a planning document meeting; and (3-31-22)

**d.** Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (3-31-22)

**06. Final EIS**. Upon completion of the EIS by the grant recipient and approval by the Department of all ~~requirements~~ preovisions listed in Subsection 040.05, the Department will issue a record of decision, documenting the mitigative measures to be required of the grant recipient. The planning document ~~can~~ may be completed once the final EIS has been approved by the Department. ~~(3-31-22)~~( )

**07. Use of Environmental Reviews Conducted by Other Agencies**. If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public notification process of the other agency. (3-31-22)

**08. Validity of Review**. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department will reevaluate the project, environmental conditions, and public comments and will: (3-31-22)

**a.** Reaffirm the earlier decision; or (3-31-22)

**b.** ~~Require~~Request supplemental information to the earlier ~~Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion~~ EIS, EID, or request for CE. Based upon a review of the updated document, the Department will issue and distribute a revised notice of ~~Categorical Exclusion, finding of no significant impact,~~ CE, FONSI, or record of decision. ~~(3-31-22)~~( )

**041. -- 049. (RESERVED)**

**050. GRANT OFFER AND ACCEPTANCE.**

**01. Grant Offer**. Grant offers will be delivered ~~by certified mail~~ to applicants who received high priority ranking, were invited to ~~submit an application~~ apply, and provided a complete application. ~~(3-31-22)~~( )

**02. Acceptance of Grant Offer**. Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period, the grant funds may be offered to the next project of priority. (3-31-22)

**03. Acceptance Executed as a Contract Agreement**. Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grant recipient, the grant offer will become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grant recipient has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grant recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements ~~shall~~ will be interpreted according to the law of grants in aid. No third party ~~shall~~ may acquire any rights against the State or its employees from a grant contract agreement. ~~(3-31-22)~~( )

**04. Estimate of Reasonable Cost**. Each grant project contract will include the eligible cost of conducting the planning study. Some eligible costs may be estimated, and payments may be increased or decreased as provided in Section 060. ~~(3-31-22)~~( )

**05. Terms of Agreement**. The grant offer ~~shall~~ will contain terms of agreement ~~as prescribed by the Department including, but not limited to~~ and special conditions as determined ~~necessary~~ by the Department for the successful planning of the project, including but not limited to:~~.~~ ~~(3-31-22)~~( )

**a.** Terms consistent with these rules and consistent with the scope of the grant project; ~~and~~ ~~(3-31-22)~~( )

**b.** Special clauses as determined necessary by the Department for the successful investigation and management of the project; ~~and~~ ~~(3-31-22)~~( )

**c.** Terms consistent with applicable state provisions pertaining to planning documents; and ~~(3-31-22)~~( )

**d.** Requirement for the prime engineering firm(s) retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability ~~shall~~ must be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project steps, whether or not such services or steps are state funded, until the certification of project performance is accepted by the Department. ~~(3-31-22)~~( )

**051. -- 059. (RESERVED)**

**060. PAYMENTS.**

**01. Eligibility Determination**. Grant funds will only be provided for eligible costs as defined at Section 010 and determined in accordance with Section 032. (3-31-22)

**02. Payments for State Grants**. Requests for payment ~~shall~~ must be submitted to the Department on a form provided by the Department. The Department will pay for those costs that are determined to be eligible. ~~(3-31-22)~~( )

**03. Grant Increases**. Grant amendment increase requests as a result of an increase in eligible project costs ~~will~~ may be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. ~~(3-31-22)~~( )

**04. Grant Decreases**. If the actual eligible cost is determined to be lower than the estimated eligible

cost the grant amount ~~will~~ may be reduced proportionately. ~~(3-31-22)~~( )

**05. Final Project Review to Determine Actual Eligible Costs**. The Department may conduct a final project review to determine the actual eligible costs. The financial records of the grant recipient may be reviewed by the Department. (3-31-22)

**06. Final Payment**. The final payment consisting of five percent (5%) of the total state grant will not be made until the ~~requirements contained~~ provisions in the grant agreement have been satisfied. ~~(3-31-22)~~( )

**061. -- 069. (RESERVED)**

**070. SUSPENSION OR TERMINATION OF GRANT.**

**01. Causes**. The Director may suspend or terminate any grant for failure by the ~~grantee~~ grant recipient or its agents, including his engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: ~~(3-31-22)~~( )

**a.** Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (3-31-22)

**b.** Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (3-31-22)

**c.** Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-31-22)

**d.** Any willful or serious failure to perform within the scope of the project; or (3-31-22)

**e.** Debarment of an engineering firm, contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-31-22)

**02. Notice**. The Director will notify the grant~~ee~~ recipient in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent ~~shall~~ will state: ~~(3-31-22)~~( )

**a.** Specific acts or omissions which form the basis for suspension or termination; and (3-31-22)

**b.** That the grant~~ee~~ recipient may be entitled to appeal the suspension or termination pursuant to ~~IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ Section 003. ~~(3-31-22)~~( )

~~**03. Determination**. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-31-22)~~

**0~~4~~3. Reinstatement of Suspended Grant**. Upon written request by the grant~~ee~~ recipient and evidence that the cause(s) for suspension no longer exist, the Director may, if funds are available, reinstate the grant. ~~(3-31-22)~~( )

**0~~5~~4. Reinstatement of Terminated Grant**. No terminated grant ~~shall~~ will be reinstated. ~~(3-31-22)~~( )

**071. -- 079. (RESERVED)**

**080. WAIVERS.**

~~Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration that a significant public health hazard exists~~The Department may amend the priority list or grant a waiver from the provisions of these rules on a case-by-case basis upon full demonstration that the following conditions exist. See Subsection 020.05.~ ~~(3-31-22)~~( )

**01.** **Public Health Protection**. The requirement is not necessary for the protection of public health and the environment and does not affect the priority ranking status of the project. ( )

**02.** **Affordability Criteria Exceeded**. The project will exceed affordability criteria adopted by the Department in the event the waiver is not granted. ( )

**081. -- 999. (RESERVED)**

# Sections Affected Index

## *IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION*



## *IDAPA 34 – IDAHO SECRETARY OF STATE*



## *IDAPA 35 – IDAHO STATE TAX COMMISSION*

# 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 September 18, 2024, unless otherwise posted.***
***The proposed rule written comment submission deadline is September 25, 2024, unless otherwise posted.***
***(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.***
***(*PH) indicates that a public hearing has been scheduled.***

**IDAPA 11 – IDAHO STATE POLICE**
**700 S Stratford Dr, Meridian, ID 83642**

****11-0501-2403, Rules Governing Alcohol Beverage Control***. (*PH) Zero-Based Regulation (ZBR) Rewrite establishes: requirements to become a licensed premises to sell alcohol; to acquire, maintain, or transfer licenses; priority list for acquisition of licenses; and age restriction requirements.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**
**PO Box 83720, Boise, ID 83720-0036**

****16-0101-2401, Emergency Medical Services***. (*PH) New Chapter consolidates into a singular governing EMS chapter necessary provisions from existing IDAPA Chapters 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12, 16.02.01 and 16.02.02, which are being repealed as companion dockets.

***16-0102-2401, Emergency Medical Services (EMS) – Rule Definitions***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0103-2401, Emergency Medical Services (EMS) – Agency Licensing Requirements***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0105-2401, Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0107-2401, Emergency Medical Services (EMS) – Personnel Licensing Requirements***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0112-2401, Emergency Medical Services (EMS) – Complaints, Investigations, and Disciplinary Actions***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0201-2401, Idaho Time Sensitive Emergency System Council***. Chapter Repeal moves necessary provisions to 16.01.01.

***16-0202-2401, Idaho Emergency Medical Services (EMS) Physician Commission***. Chapter Repeal moves necessary provisions to 16.01.01.

****16-0212-2401, Newborn Screening***. (*PH) ZBR Rewrite specifies tests and procedures performed on newborn infants for early detection of metabolic, endocrine, and hemoglobin disorders; cystic fibrosis; critical congenital heart disease; and prevention of infant blindness.

****16-0213-2401, State of Idaho Drinking Water Laboratory Certification Program***. (*PH) ZBR Rewrite defines laboratory certification requirements for testing drinking water compliance samples.

****16-0309-2401, Rules Governing Medicaid Basic Plan Benefits***. (*PH) ZBR Rewrite contains general provisions regarding the administration of Medicaid, and also requirements for provider procurement and reimbursement.

****16-0313-2401, Consumer-Directed Services***. (*PH) ZBR Rewrite details a flexible program option for participants eligible for the Children's Home and Community Based Services State Plan Option, and Adult Developmental Disabilities waiver. Supports include Self-Directed Community Supports and Family-Directed Community Supports program options described in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits."

***16-0314-2401, Rules Governing Hospitals***. Chapter Repeal due to licensing requirements existing in statute and a legislative proposal to consolidate licensing process for health and safety standards by using the Centers for Medicare and Medicaid Services certification process as the benchmark.
***16-0407-2401, Fees for State Hospital North and State Hospital South***. Chapter Repeal as a result of repetition in Centers for Medicare and Medicaid Services' (CMS) regulations, state Medicaid rules, and/or state waiver authority.
***16-0501-2401, Use and Disclosure of Department Records***. (Temp & Prop) Bolsters the Department's ability to provide information to the maximum extent possible for the protection of children from abuse.
****16-0601-2401, Child and Family Services***. (*PH) As delegated by Idaho state law, ZBR Rewrite governs the statewide provision of services associated with child protection, foster care, and adoption.
***16-0602-2403, Foster Care Licensing***. (Temp & Prop) Rule change allows renewal of a lapsed foster license, detailing a fast-tracked process for individuals who have been a licensed foster parent in the last 12 months and in good standing.
***16-0605-2401, Alleged Medical Neglect of Disabled Infants***. Chapter Repeal moves necessary provisions to 16.06.01, eliminating duplication.
****16-0737-2401, Children's Mental Health Services***. (*PH) ZBR Rewrite sets Department standards for providing children's mental health services.

**IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE**
**PO Box 83720 Boise, ID 83720-0043**

****18-0101-2401, Rule to Implement the Privacy of Consumer Financial Information***. (*PH) ZBR Rewrite describes the conditions for, and prevention methods from, a licensee disclosing nonpublic personal financial information to affiliates and nonaffiliated third parties.
****18-0302-2401, Life Settlements***. (*PH) ZBR Rewrite sets requirements for the sale and settlement of life insurance contracts to an Idaho resident.
****18-0501-2401, Rules for Title Insurance Regulation***. (*PH) ZBR Rewrite clarifies governing statute by defining certain fair-trade practice standards for title insurance; provides procedural rules for title insurers, agents, and escrow officers for consumer protection and industry stability.
****18-0606-2401, Surplus Line Rules***. (*PH) ZBR Rewrite Provides procedures for the placement of surplus line insurance.
****18-0801-2401, Adoption of the International Fire Code***. (*PH) Amends violation penalties in the incorporated International Fire Code document.

**IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES**
**PO Box 83720, Boise, ID 83720-0063**

****24-0801-2401, Rules of the State Board of Morticians***. (*PH) ZBR Rewrite governs the practice of morticians, funeral directors, and funeral establishments in Idaho, to include licensure, continuing education, practice standards, and establishment inspections.
****24-2201-2401, Rules of the Idaho State Liquefied Petroleum Gas Safety Board***. (*PH) ZBR Rewrite implements the Idaho Liquefied Petroleum Gas Public Safety Act through facility safety inspections and the collection of associated licensure and inspection fees.
****24-3001-2401, Idaho Accountancy Rules***. (*PH) Changes extend timeframe to pass and prepare for CPA examination and update an incorporated document for national continuing professional education standards.
****24-3201-2401, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors***. (*PH) ZBR Rewrite covers the procedures of the board and the practice of professional engineering and land surveying in the State of Idaho.
****24-3701-2401, Rules of the Idaho Real Estate Commission***. (*PH) ZBR Rewrite implements and enforces the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Idaho Code.

**IDAPA 34 – IDAHO SECRETARY OF STATE**
**PO Box 83720 Boise, ID 83720-0080**

***34-0801-2401, Rules Governing Paid Signature Gatherers***. (Temp & Prop) New Chapter sets forth the font, shape, color, and size requirements for the badges worn by paid signature gatherers for initiatives and referendums.

**IDAPA 35 – IDAHO STATE TAX COMMISSION**
**11321 W Chinden Blvd, Bldg 2, Boise, ID 83714**

***35-0103-2401, Property Tax Administrative Rules***. Change provides county assessors valuing specific types of

Agricultural land with formula calculating the income capitalization approach used for Animal Units per Month (AUM) for grazing land assessments.
***35-0103-2402, Property Tax Administrative Rules***. (Temp & Prop) Rulemaking guides local county governments on procedures necessary to distribute property tax relief payment appropriated by the Legislature, which eliminated one of the three original property tax relief programs.
****35-0105-2401, Idaho Motor Fuels Tax Administrative Rules***. (*PH) ZBR Rewrite clarifies: when and how Distributors report and pay fuel tax and transfer fee; when consumers owe or can claim a refund for fuel tax or owe fuel use tax; and records required to be maintained by IFTA licensees and IRP and FF registrants. Comment by 10-2-24
****35-0110-2401, Idaho Cigarette and Tobacco Products Taxes Administrative Rules***. (*PH) ZBR Rewrite ensures the reporting and payment of tax on all cigarette and tobacco products sold, used, consumed, handled, or distributed within the state. Comment by 10-2-24

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**
**1410 N Hilton St, Boise, Idaho 83706**

****58-0101-2401, Rules for the Control of Air Pollution in Idaho***. (*PH) Rulemaking: adds clarifying definitions; removes emergency affirmative defense provisions to comply with federal action in the Clean Air Act (CAA) operating permit program regulations; and updates incorporated documents to ensure that state rules remain consistent with federal regulations that implement the CAA. Comment by 10-8-24
***58-0108-2401, Idaho Rules for Public Drinking Water Systems***. To support a state primacy package, rule changes update federal regulations incorporated by reference for National Primary Drinking Water Regulation under the Safe Drinking Water Act to manage risks of per- and polyfluoroalkyl substances in drinking water. Comment by 10-4-24
***58-0114-2401, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services***. ZBR Rewrite establishes reasonable fees for environmental operating permits, licenses, inspection services and waiver application processing rendered by the Department of Environmental Quality or its designees. Comment by 10-4-24
***58-0122-2401, Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities***. ZBR Rewrite governs procedures and requirements for establishing, implementing, and administering a state planning grant program providing financial assistance to qualifying entities to prepare a drinking water or wastewater facility planning document.

## EXECUTIVE ORDERS OF THE GOVERNOR

***2024-08***, Defending Women's Sports Act

## NOTICE OF ADOPTED / AMENDED PROCLAMATION(S)

**IDAPA 13 – IDAHO FISH AND GAME COMMISSION**
***13-0000-2400P6***, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

## NOTICES OF ADOPTION OF TEMPORARY RULE ONLY

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**
***16-0601-2404***, Child and Family Services

## NOTICES OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

(Please see the Administrative Bulletin for dates and times of meetings and other participant information)

**IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**
***15-0230-2401***, Business Enterprise Program

Please refer to the Idaho Administrative Bulletin **September 4, 2024, Volume 24-9**, 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/**

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-334-3900; Email: **adminrules@dfm.idaho.gov**

# *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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# ABRIDGED RULEMAKING INDEX
## OF IDAHO ADMINISTRATIVE RULES

## (Index of Current and Active Rulemakings)

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

***April 6, 2023 – September 4, 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)***

***(This Abridged Index includes all active rulemakings.)***

# *IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE*

**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapters 13, 15; Title 03, Chapter 03; Title 04, Chapters 14, 23, 30, 32; and Title 06, Chapters 04, 09, 10, 16 – Bulletin Vol. 23-5

## *02.02.12, Bonded Warehouse Rules*

**02-0212-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

## *02.02.13, Commodity Dealers' Rules*

**02-0213-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0213-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0213-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0213-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 13 – Bulletin Vol. 23-5

## *02.02.14, Rules for Weights and Measures*

**02-0214-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0214-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0214-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**02-0214-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10

## *02.02.15, Rules Governing the Seed Indemnity Fund*

**02-0215-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0215-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0215-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0215-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 15 – Bulletin Vol. 23-5

## *02.03.01, Rules Governing Pesticide Management Plans for Ground Water Protection*

**02-0301-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

## *02.03.03, Rules Governing Pesticide and Chemigation Use and Application*

**02-0303-2402** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

*02-0303-2401* *Adoption of Temporary Rule, Bulletin Vol. 24-5 (eff. 4-22-24)T* ***[expires 7-1-24]***

**02-0303-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0303-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0303-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0303-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 3 – Bulletin Vol. 23-5

## *02.04.03, Rules Governing Animal Industry*

**02-0403-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

## *02.04.14, Rules Governing Dairy Byproduct*

**02-0414-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0414-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0414-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**02-0414-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 14 – Bulletin Vol. 23-5

## *02.04.15, Rules Governing Beef Cattle Animal Feeding Operations*

**02-0415-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

## *02.04.19, Rules Governing Domestic Cervidae*

**02-0419-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

### *02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities*

**02-0423-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0423-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0423-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**02-0423-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 23 – Bulletin Vol. 23-5

### *02.04.30, Rules Governing Environmental and Nutrient Management*

**02-0430-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0430-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0430-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**02-0430-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 30 – Bulletin Vol. 23-5

### *02.04.32, Rules Governing Poultry Operations*

**02-0432-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0432-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0432-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0432-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 32 – Bulletin Vol. 23-5

### *02.05.01, Rules Governing Produce Safety*

**02-0501-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *02.06.01, Rules Governing the Production and Distribution of Seed*

**02-0601-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0601-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0601-2301** Adoption of Pending Rule (Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0601-2301** Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 23-10
**02-0601-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

### *02.06.02, Rules Governing Registrations and Licenses*

**02-0602-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0602-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0602-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**02-0602-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10

### *02.06.04, Rules Governing Plant Exports*

**02-0604-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**02-0604-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**02-0604-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**02-0604-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**02-ZBRR-2301** ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 04 – Bulletin Vol. 23-5

### *02.06.09, Rules Governing Invasive Species and Noxious Weeds*

**02-0609-2403** Adoption of Temporary Rule, Bulletin Vol. 24-8 (eff. 6-28-24)T

**02-0609-2402** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

**02-0609-2401** Adoption of Temporary Rule, Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T

***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**]*

02-0609-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
02-0609-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
02-0609-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
02-0609-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-10
02-ZBRR-2301 ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 09 – Bulletin Vol. 23-5

### *02.06.10, Rules Governing the Growing of Potatoes*

02-0610-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
02-0610-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
02-0610-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
02-0610-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
02-ZBRR-2301 ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 10 – Bulletin Vol. 23-5

### *02.06.16, Rules Governing Honey Standards*

02-0616-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
02-0616-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
02-0616-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
02-0616-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
02-ZBRR-2301 ***Rules of the Idaho Department of Agriculture*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 16 – Bulletin Vol. 23-5

### *02.06.33, Organic Food Products Rules*

02-0633-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
02-0633-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
02-0633-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
02-0633-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-10

### *02.08.01, Sheep and Goat Rules of the Idaho Sheep and Goat Health Board*

02-0801-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

## *IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL*

*04.11.01, Idaho Rules of Administrative Procedure of the Attorney General*

*44-0000-2400* *Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 04.11.01 – Bulletin Vol. 24-7*

*04-1101-2300* *Notice of Revocation of Final Rule, Bulletin Vol. 23-7*

## *IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS*

### *05.01.02, Rules and Standards for Secure Juvenile Detention Centers*

05-0102-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
05-0102-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
05-0102-2301 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 24-1 (PLR 2024)
05-0102-2301 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10
05-0102-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

### *05.01.04, Rules Governing County Juvenile Probation and Detention Services*

05-0104-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Uniform Standards for Juvenile Probation Services"*
05-0104-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
05-0104-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
05-0104-2301* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
05-0104-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

***05.02.01, Rules for Residential Treatment Providers***

***05-0201-2301*** *Notice of Rejection – Agency Filing of Final Rule - Rejection of Pending Rule by HCR 43, Bulletin Vol. 24-9 (Null and Void)*
***05-0201-2301*** *OARC Corrected Omnibus Notice of Legislative Action–Pending Rule Rejected by HCR 43, Bulletin Vol. 24-9 (Null & Void)*
***05-0201-2301*** *OARC Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-8 (Null and Void)*
***05-0201-2301*** *Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 24-1 (PLR 2024)*
***05-0201-2301*** *Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10*
***05-0201-2301*** *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6*

## *IDAPA 08 – IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION*

*08.01.02, [**Repealed**] Rules Governing the Postsecondary Credit Scholarship Program*

**08-0102-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**08-0102-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**08-0102-2301** Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)
**08-0102-2301** Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 23-10
**08-0102-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

***08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools***

**08-0111-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

***08.01.13, Rules Governing the Opportunity Scholarship Program***

**08-0113-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

***08-0113-2303*** *Adoption of Temporary Rule, Bulletin Vol. 23-11 (eff. 11-1-23)T **[expires sine die 2024]***

**08-0113-2302** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**08-0113-2302** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**08-0113-2302** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
**08-0113-2302** Notice of Proposed Rulemaking, Bulletin Vol. 23-10
**08-0113-2302** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

***08-0113-2301*** *Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T **[expires sine die 2024]***

***08.01.15, Rules Governing the Firearms Safety Grant Program***

**08-0115-2401** Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 24-6

***08.02.01, Rules Governing Administration***

**08-0201-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

**08-0201-2301** *Adoption of Temporary Rule, Bulletin Vol. 23-6 (eff. 4-6-23)T **[expires sine die 2024]***

***08.02.02, Rules Governing Uniformity***

**08-0202-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

***08.02.03, Rules Governing Thoroughness***

**08-0203-2402** Adoption of Temporary Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

**08-0203-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

**08-0203-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**08-0203-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**08-0203-2301** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
**08-0203-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10
**08-0203-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

***08.02.04, Rules Governing Public Charter Schools***

**08-0204-2400** Notice of Revocation of Final Rule, Bulletin Vol. 24-3

### *08.04.01, Rules of the Idaho Digital Learning Academy*

**08-0401-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

*08-0401-2301* *OARC Corrected Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-9 (Null and Void)*
*08-0401-2301* *OARC Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-8 (Null and Void)*
*08-0401-2301* *Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)*
*08-0401-2301* *Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10*
*08-0401-2301* *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6*

## *IDAPA 09 – IDAHO DEPARTMENT OF LABOR*

### *09.01.01, Rules of Administrative Procedure of the Department of Labor*

**09-0101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *09.01.08, Rules on Disclosure of Employment Security Information*

**09-0108-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

### *09.01.30, Unemployment Insurance Benefits Administration Rules*

**09-0130-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *09.01.35, Unemployment Insurance Tax Administration Rules*

**09-0135-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *09.05.03, Rules for Determining Bargaining Representatives*

**09-0503-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *IDAPA 11 – IDAHO STATE POLICE*

## *Idaho State Brand Board*

### *11.02.01, Rules of the Idaho State Brand Board*

*11-0201-2401* *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7 (terminated by agency)*

**11-0201-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-0201-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-0201-2301** Adoption of Pending Rule (Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**11-0201-2301** Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 23-10
**11-0201-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

## *Idaho State Police Forensic Services*

### *11.03.01, Rules Governing Alcohol Testing*

**11-0301-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *Idaho State Racing Commission*

### *11.04.01, Rules Governing the Idaho State Racing Commission*

**44-0000-2400** Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 11.04.01 – Bulletin Vol. 24-7

*11-0401-2401* *Adoption of Temporary Rule (New Chapter, Fee Rule), Bulletin Vol. 24-5 (eff. 4-24-24)T [**expires 7-1-24**]*

**11-0401-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-0401-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-0401-2301** Adoption of Pending Rule (New Chapter, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**11-0401-2301** Notice of Temporary and Proposed Rule (New Chapter, Fee Rule), Bulletin Vol. 23-5 (eff. 4-6-23)T [***temporary rule expires sine die 2024***]

## Alcohol Beverage Control Bureau

### 11.05.01, Rules Governing Alcohol Beverage Control

**11-0501-2403** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**11-0501-2403** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

**11-0501-2402** Adoption of Temporary Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

***11-0501-2401*** *Adoption of Temporary Rule, Bulletin Vol. 24-4 (eff.* ***sine die*** *2024)T* ***[expires 7-1-24]***

***11-0501-2301*** *Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T* ***[expires sine die 2024]***

## Commercial Vehicle Safety Division

### 11.07.01, Rules Governing Motor Vehicles – General Rules

**11-0701-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-0701-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-0701-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**11-0701-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
**11-0701-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

### 11.07.03, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles

**11-0703-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-0703-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-0703-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**11-0703-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
**11-0703-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

### 11.10.01, Rules Governing Idaho Public Safety and Security Information System

***11-1001-2401*** *Adoption of Temporary (Fee) Rule, Bulletin Vol. 24-6 (eff. 4-24-24)T* ***[expires 7-1-24]***

**11-1001-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-1001-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-1001-2301** Adoption of Pending Rule (Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**11-1001-2301** Temporary and Proposed (Fee) Rule, Bulletin Vol. 23-9 (eff. 10-1-23)T [***temporary rule expires sine die 2024***]

### 11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

**11-1101-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 6-7-24)T

### 11.13.01, The Motor Carrier Rules

**11-1301-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-8 (eff. 7-1-24)T

**11-1301-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by SCR 120, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-1301-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**11-1301-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**11-1301-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**11-1301-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
**11-1301-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

# IDAPA 12 – DEPARTMENT OF FINANCE

**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, Chapters 04, 08, and 10 – Bulletin Vol. 23-8

### 12.01.04, Rules Pursuant to the Idaho Credit Union Act

**12-0104-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**12-0104-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)

**12-0104-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**12-0104-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**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 04 – Bulletin Vol. 23-8

### *12.01.08, Rules Pursuant to the Uniform Securities Act (2004)*

**12-0108-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**12-0108-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**12-0108-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**12-0108-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**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

### *12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act*

**12-0110-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**12-0110-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**12-0110-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**12-0110-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**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

## *IDAPA 13 – IDAHO FISH AND GAME COMMISSION*

### *Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho*

**13-0000-2400P6** Notice of Adopted / Amended Proclamations for Calendar Year 2024, Bulletin Vol. 24-9
**13-0000-2400P5** Notice of Adopted / Amended Proclamations for Calendar Year 2024, Bulletin Vol. 24-8
**13-0000-2400P4** Notice of Adopted / Amended Proclamations for Calendar Year 2024, Bulletin Vol. 24-7
**13-0000-2400P3** Notice of Adopted / Amended Proclamations for Calendar Year 2024, Bulletin Vol. 24-6
**13-0000-2400P2** Notice of Adopted / Amended Proclamations for Calendar Year 2024, Bulletin Vol. 24-5
**13-0000-2400P1** Notice of Adoption of Proclamation for Calendar Year 2024, Bulletin Vol. 24-2

**13-0000-2300P9** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 24-1
**13-0000-2300P8** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-11
**13-0000-2300P7** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-9
**13-0000-2300P6** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-7
**13-0000-2300P5** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-6
**13-0000-2300P4** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-5
**13-0000-2300P3** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-4
**13-0000-2300P2** Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-3
**13-0000-2300P1** Notice of Adoption of Proclamation for Calendar Year 2023, Bulletin Vol. 23-1

### *13.01.04, Rules Governing Licensing*

**13-0104-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

**13-0104-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0104-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0104-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**13-0104-2301** Temporary and Proposed Rule, Bulletin Vol. 23-9 (eff. 7-27-23)T [***temporary rule expires sine die 2024***]

### *13.01.06, Rules Governing Classification and Protection of Wildlife*

**13-0106-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0106-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0106-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**13-0106-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**13-0106-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *13.01.08, Rules Governing Taking of Big Game Animals*

**13-0108-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

**13-0108-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0108-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0108-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**13-0108-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-10
**13-0108-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-4

### *13.01.11, Rules Governing Fish*

**13-0111-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

**13-0111-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0111-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0111-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**13-0111-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**13-0111-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

*13.01.12, [**Repealed**] Rules Governing Commercial Fishing*

**13-0112-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0112-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0112-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 24-1 (PLR 2024)
**13-0112-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 23-10
**13-0112-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *13.01.15, Rules Governing the Use of Dogs*

**13-0115-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**13-0115-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**13-0115-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**13-0115-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
**13-0115-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *13.01.16, Trapping of Wildlife and Taking of Furbearing Animals*

**13-0116-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

### *13.01.17, Rules Governing Use of Bait for Hunting Big Game Animals*

**13-0117-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

## *IDAPA 15 – OFFICE OF THE GOVERNOR*

### *Executive Orders of the Governor*

Executive Order No. **2024-08** Defending Women's Sports Act, Bulletin Vol. 24-9
Executive Order No. **2024-07** Only Citizens Will Vote Act, Bulletin Vol. 24-8
Executive Order No. **2024-06** Protecting Idaho Water Sovereignty Act, Bulletin Vol. 24-7
Executive Order No. **2024-05** Promoting Families and Protecting Children, Bulletin Vol. 24-7
Executive Order No. **2024-04** Operation Esto Perpetua, Bulletin Vol. 24-5
Executive Order No. **2024-03** Continuing the Juvenile Justice Commission, Bulletin Vol. 24-5
Executive Order No. **2024-02** Continuing the Workforce Development Council, Bulletin Vol. 24-5
Executive Order No. **2024-01** Continuing the Idaho Behavioral Health Council, Bulletin Vol. 24-5

Executive Order Retrospective Spanning Years **1938-1995**, Bulletin Vol. 24-3SE

Executive Order No. **2023-03** Idaho Outdoor Recreation Fund Advisory Council, Bulletin Vol. 23-9
Executive Order No. **2023-02** Provisions for State Cooperation With the National Flood Insurance Program Under the National Flood Insurance Act of 1968, as Amended, Bulletin Vol. 23-3
Executive Order No. **2023-01** Pacific Northwest Economic Region Idaho Council, Bulletin Vol. 23-3

### *State of the State and Budget Addresses of the Governor*

State of the State and Budget Addresses Retrospective Spanning Years **1890-2024**, Bulletin Vol. 24-4SE

### *Idaho Commission for the Blind and Visually Impaired*

### 15.02.30, Business Enterprise Program

15-0230-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-9

## Division of Human Resources and Personnel Commission

### 15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission

44-0000-2401 Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 15.04.01 – Bulletin Vol. 24-8

15-0401-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
15-0401-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
15-0401-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
15-0401-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
15-0401-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

## Idaho Military Division

### 15.06.05, Hazardous Substance Response Rules

15-0605-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## Idaho State Liquor Division

### 15.10.01, Rules of the Idaho State Liquor Division

15-1001-2301 Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 52, Bulletin Vol. 24-9 (eff. 7-1-24)
15-1001-2301 OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
15-1001-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
15-1001-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
15-1001-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10

# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

### 16.01.01, Emergency Medical Services

16-0101-2401 Notice of Proposed Rulemaking (New Chapter), Bulletin Vol. 24-9

### 16.01.02, Emergency Medical Services (EMS) – Rule Definitions

16-0102-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

16-0102-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0102-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0102-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
16-0102-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-8

### 16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements

16-0103-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

16-0103-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0103-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0103-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0103-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
16-0103-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### 16.01.05, Emergency Medical Services (EMS) -- Education, Instructor, & Examination Requirements

16-0105-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

### 16.01.07, Emergency Medical Services (EMS) – Personnel Licensing Requirements

16-0107-2401 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 24-9
16-0107-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### 16.01.12, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions

16-0112-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

### 16.02.01, Idaho Time Sensitive Emergency System Council

16-0201-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

### 16.02.02, Idaho Emergency Medical Services (EMS) Physician Commission

16-0202-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

16-0202-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0202-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0202-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0202-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
16-0202-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

### 16.02.06, Quality Assurance for Clinical Laboratories

16-0206-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Quality Assurance for Idaho Clinical Laboratories"*
16-0206-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0206-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0206-2301* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
16-0206-2301 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4
16-0206-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

### 16.02.12, Newborn Screening

16-0212-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9

### 16.02.13, State of Idaho Drinking Water Laboratory Certification Program

16-0213-2401* Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-9
*Changes chapter name from: "State of Idaho Drinking Water Laboratory Certification Program"*
16-0213-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

### 16.02.24, Clandestine Drug Laboratory Cleanup

16-0224-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0224-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0224-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
16-0224-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
16-0224-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### 16.02.25, State Laboratory Fees

16-0225-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0225-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0225-2301 Adoption of Pending Rule (Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
16-0225-2301 Notice of Proposed (Fee) Rule, Bulletin Vol. 23-7

### 16.03.01, Eligibility for Health Care Assistance for Families and Children

16-0301-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0301-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0301-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
16-0301-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
16-0301-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### 16.03.02, Skilled Nursing Facilities

16-0302-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0302-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0302-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0302-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
16-0302-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

### 16.03.04, Idaho Food Stamp Program

16-0304-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0304-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0304-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0304-2301 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 23-10
16-0304-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9

### *16.03.05, Eligibility for Aid to the Aged, Blind, and Disabled (AABD)*

16-0305-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0305-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0305-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0305-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
16-0305-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *16.03.06, Refugee Medical Assistance*

16-0306-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0306-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0306-2301 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
16-0306-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-9

### *16.03.09, Medicaid Basic Plan Benefits*

16-0309-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
16-0309-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

16-0309-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0309-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0309-2301 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
16-0309-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T [***temporary rule expires sine die 2024***]

### *16.03.10, Medicaid Enhanced Plan Benefits*

16-0310-2101 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0310-2101 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0310-2101 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
16-0310-2101 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-10 (eff. 9-1-23)T [***temporary rule expires sine die 2024***]
16-0310-2101 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 21-11

### *16.03.11, Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/IID)*

16-0311-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

### *16.03.13, Consumer-Directed Services*

16-0313-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
16-0313-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

16-0313-2101 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0313-2101 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0313-2101 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
16-0313-2101 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-10 (eff. 9-1-23)T [***temporary rule expires sine die 2024***]
16-0313-2101 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 21-11

### *16.03.14, Hospitals*

16-0314-2401 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 24-9
16-0314-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

16-0314-2301 OARC Corrected Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0314-2301 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 24-8 (eff. 11-14-23)T
16-0314-2301 Adoption of Temporary Rule, Bulletin Vol. 23-12 (eff. 11-14-23)T

### *16.03.18, Medicaid Cost-Sharing*

16-0318-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0318-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0318-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)

**16-0318-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**16-0318-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

### *16.03.22, Residential Assisted Living Facilities*

**16-0322-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**16-0322-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**16-0322-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**16-0322-2301** Notice of Proposed Rule, Bulletin Vol. 23-7
**16-0322-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-3

### *16.04.07, Fees for State Hospital North and State Hospital South*

**16-0407-2401** Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

### *16.04.18, Children's Agencies and Residential Licensing*

**16-0418-2401** Adoption of Pending Rule, Bulletin Vol. 24-9 (PLR 2025)
**16-0418-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

**16-0418-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**16-0418-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**16-0418-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**16-0418-2301** Notice of Temporary and Proposed Rule, Bulletin Vol. 23-5 (eff. 4-6-23)T [***temporary rule expires sine die 2024***]

### *16.05.01, Use and Disclosure of Department Records*

**16-0501-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-9 (eff. 8-6-24)T

*16.05.03, Contested Cases Proceedings and Declaratory Rulings*

***44-0000-2400*** *Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 16.05.03 – Bulletin Vol. 24-7*

***16-0503-2301*** *Vacation of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-3*
***16-0503-2301*** *Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)*
***16-0503-2301*** *Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9*
***16-0503-2301*** *(2nd) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3*
***16-0503-2301*** *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-2*

*(**MOVED AND REDESIGNATED**) 16.05.04, Domestic Violence Council Grants*

**16-0504-2400** **IDAPA 16.05 – IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE** – Notice of Assignment of New IDAPA Designation Number – Redesignated from ***IDAPA 16, Title 05, Chapter 04*** to ***IDAPA 63, Title 05, Chapter 04*** – Bulletin Vol. 24-6 (eff. 7-1-24)

### *16.06.01, Child and Family Services*

**16-0601-2404** Adoption of Temporary Rule, Bulletin Vol. 24-9 (eff. 8-6-24)T

**16-0601-2403** Adoption of Temporary Rule, Bulletin Vol. 24-7 (eff. 6-5-24)T

**16-0601-2402** Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 24-9
**16-0601-2402** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-6 (eff. 4-17-24)T

**16-0601-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**16-0601-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

***16-0601-2301*** *Notice of Rejection – Agency Filing of Final Rule - Rejection of Pending Rule by HCR 39, Bulletin Vol. 24-9 (Null and Void)*
***16-0601-2301*** *OARC Corrected Omnibus Notice of Legislative Action – Rejection of Pending Rule, Bulletin Vol. 24-9 (Null and Void)*
***16-0601-2301*** *OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)*
***16-0601-2301*** *Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)*
***16-0601-2301*** *Notice of Temporary and Proposed Rule, Bulletin Vol. 23-7 (eff. 8-1-23)T* ***[temporary rule expires sine die 2024]***

### *16.06.02, Foster Care Licensing*

**16-0602-2403** Adoption of Temporary Rule, Bulletin Vol. 24-9 (eff. 8-15-24)T

16-0602-2402 Adoption of Pending Rule (Chapter Rewrite), Bulletin Vol. 24-9 (PLR 2025)
16-0602-2402 Notice of Temporary and Proposed Rule (Chapter Rewrite), Bulletin Vol. 24-7 (eff. 7-1-24)T

16-0602-2401 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 24-9 (PLR 2025)
16-0602-2401 Notice of Temporary and Proposed Rule (Chapter Repeal), Bulletin Vol. 24-7 (eff. 7-1-24)T

16-0602-2301 Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 39, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0602-2301* OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Child Care and Foster Care Licensing"*
16-0602-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0602-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
16-0602-2301* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8

### *16.06.03, Daycare Licensing*

16-0603-2401 Adoption of Temporary Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

16-0603-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0603-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0603-2301 Adoption of Pending Rule (New Chapter, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
16-0603-2301 Notice of Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 23-8

### *16.06.05, Alleged Medical Neglect of Handicapped Infants*

16-0605-2401 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 24-9

### *16.07.19, Peer Support Specialist and Family Support Partner Certification*

16-0719-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Certification of Peer Support Specialists and Family Support Partners"*
16-0719-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0719-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
16-0719-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
16-0719-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-2

### *16.07.25, Prevention of Minors' Access to Tobacco or Electronic Smoking Device Products*

16-0725-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Prevention of Minors' Access to Tobacco Products"*
16-0725-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0725-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
16-0725-2301* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
16-0725-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

### *16.07.37, Children's Mental Health Services*

16-0737-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
16-0737-2401 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3
16-0737-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-2

### *16.07.39, Designated Examiners and Dispositioners*

16-0739-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
16-0739-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
16-0739-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
16-0739-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-10

## *IDAPA 17 – INDUSTRIAL COMMISSION*

### *17.01.01, Administrative Rules Under the Worker's Compensation Law*

17-0101-2301 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5
17-0101-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-11

### *17.10.01, Administrative Rules Under the Crime Victims Compensation Act*

**17-1001-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by SCR 129, Bulletin Vol. 24-9 (eff. 7-1-24)
**17-1001-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**17-1001-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**17-1001-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-11 (PLR 2024)
**17-1001-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-9
**17-1001-2301** (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6
**17-1001-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

## *IDAPA 18 – DEPARTMENT OF INSURANCE*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates 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 – Bulletin Vol. 24-7

**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 01, Chapter 02; Title 04, Chapters 04, 08; Title 06, Chapters 01-03; Title 07, Chapters 06, 10; and Title 08, Chapter 01 – Bulletin Vol. 23-6

### *18.01.01, Rule to Implement the Privacy of Consumer Financial Information*

**18-0101-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 24-7

### *18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges*

**18-0102-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0102-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0102-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**18-0102-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), 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 01, Chapter 02 – Bulletin Vol. 23-6

### *18.03.02, Life Settlements*

**18-0302-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 02 – Bulletin Vol. 24-7

### *18.03.03, Variable Contracts*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 03 – Bulletin Vol. 24-7

### *18.03.04, Replacement of Life Insurance and Annuities*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 04 – Bulletin Vol. 24-7

### *18.04.03, Advertisement of Disability (Accident and Sickness) Insurance*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 03 – Bulletin Vol. 24-7

### *18.04.04, The Managed Care Reform Act Rule*

**18-0404-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 48, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0404-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0404-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0404-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**18-0404-2301** 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 04, Chapter 04 – Bulletin Vol. 23-6

### *18.04.08, Individual and Group Supplemental Disability Insurance Minimum Standards Rule*

**18-0408-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**18-0408-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0408-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**18-0408-2301** 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 04, Chapter 08 – Bulletin Vol. 23-6

### *18.04.15, Rules Governing Short-Term Health Insurance Coverage*

**18-0415-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

### *18.05.01, Rules for Title Insurance Regulation*

**18-0501-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 05, Chapter 01 – Bulletin Vol. 24-7

### *18.06.01, Rules Pertaining to Bail Agents*

**18-0601-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0601-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**18-0601-2301** 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 06, Chapter 01 – Bulletin Vol. 23-6

### *18.06.02, Producers Handling of Fiduciary Funds*

**18-0602-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0602-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0602-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**18-0602-2301** 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 06, Chapter 02 – Bulletin Vol. 23-6

*18.06.03, [**Repealed**] Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees*

**18-0603-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0603-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0603-2301** Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 23-12 (PLR 2024)
**18-0603-2301** Notice of Proposed Rulemaking (ZBR Chapter Repeal), 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 06, Chapter 03 – Bulletin Vol. 23-6

### *18.06.06, Surplus Lines Rules*

**18-0606-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 06 – Bulletin Vol. 24-7

### *18.07.04, Annual Financial Reporting*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 04 – Bulletin Vol. 24-7

### *18.07.05, Director's Authority for Companies Deemed to be in Hazardous Financial Condition*

**18-ZBRR-2401** ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 05 – Bulletin Vol. 24-7

### *18.07.06, Life and Health Reinsurance Agreements*

**18-0706-2301*** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Rules Governing Life and Health Reinsurance Agreements"*
**18-0706-2301*** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**18-0706-2301*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0710-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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 Proposed Rulemaking, Bulletin Vol. 24-9
**18-0801-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

**18-0801-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**18-0801-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**20-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 49, Bulletin Vol. 24-9 (eff. 7-1-24)
**20-0301-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**20-0301-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**20-0303-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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*** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Riverbed Mineral Leasing in Idaho"*
**20-0305-2301*** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**20-0305-2301*** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**20-0501-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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 Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8
**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*** *OARC Corrected Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-9 (Null and Void)*
***21-0104-2301*** *OARC Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-8 (Null and Void)*
***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*** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Rules of the Board of Architectural Examiners"*

**24-0101-2301*** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)

**24-0101-2301*** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)

**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*

**24-0201-2402** Notice of Proposed Rulemaking (ZBR New Chapter), Bulletin Vol. 24-8

**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

**24-0201-2401** Adoption of Temporary Rule (New Chapter, Fee Rule), Bulletin Vol. 24-6 (eff. 6-1-24)T

### *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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**24-0501-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)

**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

### *24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants*

**24-0601-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**24-0601-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)

**24-0601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), 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, [**Repealed**] Rules of the Idaho State Board of Landscape Architects*

**24-0701-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**24-0701-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)

**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

### *24.08.01, Rules of the State Board of Morticians*

**24-0801-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-9
**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

### *24.11.01, Rules of the State Board of Podiatry*

**24-1101-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-1101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), 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

### *24.13.01, Rules Governing the Physical Therapy Licensure Board*

**24-1301-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1301-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-1301-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), 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

### *24.14.01, Rules of the State Board of Social Work Examiners*

**24-1401-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 39, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1401-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1401-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1501-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-1501-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)
**24-1501-2301** 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 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 Denturity*

**24-1601-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**24-1601-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-1601-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)
**24-1601-2301** 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 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

### *24.18.01, Rules of the Real Estate Appraiser Board*

**24-1801-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-1801-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-1801-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**24-1801-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**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
**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 18, Chapter 01 – Bulletin Vol. 23-4

### *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
**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 19, Chapter 01 – Bulletin Vol. 24-4

### *24.21.01, Rules of the Idaho State Contractors Board*

**24-2101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

### *24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board*

**24-2201-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-2701-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-2701-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)
**24-2701-2301** 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 27, 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 27, Chapter 01 – Bulletin Vol. 23-4

### *24.28.01, Rules of the Barber and Cosmetology Services Licensing Board*

**24-2801-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-2801-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-2801-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11 (PLR 2024)
**24-2801-2301** 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 28, 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 28, Chapter 01 – Bulletin Vol. 23-4

### *24.29.01, Rules of Procedure of the Idaho Certified Shorthand Reporters Board*

**24-2901-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8
**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 29, Chapter 01 – Bulletin Vol. 24-4

### *24.30.01, Idaho Accountancy Rules*

24-3001-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-9
24-3001-2401 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

### 24.31.01, Rules of the Idaho State Board of Dentistry

24-3101-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
24-3101-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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
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 31, Chapter 01 – Bulletin Vol. 23-4

### 24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

24-3201-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
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 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
24-3301-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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

### 24.33.02, Rules for the Licensure of Physician Assistants

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

### 24.33.03, General Provisions of the Board of Medicine

24-3303-2401 Notice of Proposed Rulemaking (ZBR Chapter Repeal), 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 03 – Bulletin Vol. 24-4

### 24.33.04, Rules for the Licensure of Naturopathic Medical Doctors

24-3304-2401 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 04 – Bulletin Vol. 24-4

### 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

### 24.33.07, Rules for the Licensure of Dietitians

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

### 24.35.01, Rules of the Outfitters and Guides Licensing Board

**24-3501-2401** Notice of Proposed Rulemaking, Bulletin Vol. 24-8
**24-3501-2401** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-6

**24-3501-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3501-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *24.36.01, Rules of the Idaho State Board of Pharmacy*

**24-3601-2402** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3601-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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 Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**24-3701-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

### *24.38.01, Rules of the State of Idaho Board of Veterinary Medicine*

**24-3801-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3801-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *24.39.10, Rules of the Idaho Electrical Board*

**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*** *OARC Corrected Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-9 (Null and Void)*
***24-3910-2302*** *OARC Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-8 (Null and Void)*
***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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3930-2302** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 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
**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 30 – Bulletin Vol. 23-4

*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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3931-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 48, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3950-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-3950-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *24.39.70, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems*

**24-3970-2401** Adoption of Temporary Rule, Bulletin Vol. 24-8 (eff. 7-10-24)T

### *24.39.60, Rules Governing Uniform School Building Safety*

**24-3960-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *24.39.80, Idaho Minimum Safety Standards and Practices for Logging*

**24-3980-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-7

### *24.39.90, Rules Governing the Damage Prevention Board*

**24-3990-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8
**24-3990-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-6

### *24.40.01, Rules for the Board of Naturopathic Health Care*

**24-4001-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**24-4001-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**24-4001-2301** Adoption of Pending Rule (New Chapter, Fee Rule), 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

## *IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION*

### *26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation*

**26-0110-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**26-0110-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**26-0110-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**26-0110-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**26-0110-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

### *26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities*

**26-0120-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by SCR 126, Bulletin Vol. 24-9 (eff. 7-1-24)
**26-0120-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

26-0120-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
26-0120-2301 Adoption of Pending Rule (Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
26-0120-2301 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 23-10
26-0120-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-8

*26.01.34, [**Repealed**] Idaho Protection Against Invasive Species Sticker Rules*

26-0134-2201 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
26-0134-2201 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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

### *26.01.37, Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles*

26-0137-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *IDAPA 29 – IDAHO POTATO COMMISSION*

### *29.01.01, Rules of the Idaho Potato Commission*

29-0101-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
29-0101-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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
29-0101-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-3

## *IDAPA 31 – PUBLIC UTILITIES COMMISSION*

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 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
31-1201-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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

### *31.21.01, Customer Relations Rules for Gas, Electric & Water Public Utilities (The Utility Customer Relations Rules)*

31-2101-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-8

31-2101-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
31-2101-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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

### *31.26.01, Master-Metering Rules for Electric Utilities*

31-2601-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
31-2601-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
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 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)

**31-3101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *31.41.01, Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission*

**31-4101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD*

### *32.01.01, Rules Governing the Credit Enhancement Program for School Districts*

**32-0101-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**32-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**32-0101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**32-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-11
**32-0101-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

## *IDAPA 34 – SECRETARY OF STATE*

### *34.08.01, Rules Governing Paid Signature Gatherers*

**34-0801-2401** Notice of Temporary and Proposed Rule (New Chapter), Bulletin Vol. 24-9 (eff. 7-1-24)T

## *IDAPA 35 – STATE TAX COMMISSION*

### *35.01.01, Income Tax Administrative Rules*

**35-0101-2302** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**35-0101-2302** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**35-0101-2302** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**35-0101-2302** Notice of Proposed Rulemaking, Bulletin Vol. 23-11

**35-0101-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**35-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**35-0101-2301** Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
**35-0101-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-8
**35-0101-2301** Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

### *35.01.02, Idaho Sales and Use Tax Administrative Rules*

**35-0102-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**35-0102-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**35-0102-2301** Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)
**35-0102-2301** Notice of Proposed Rulemaking, Bulletin Vol. 23-11

### *35.01.03, Property Tax Administrative Rules*

**35-0103-2402** Notice of Temporary and Proposed Rule (New Chapter), Bulletin Vol. 24-9 (eff. 7-30-24)T

**35-0103-2401** Notice of Proposed Rulemaking, Bulletin Vol. 24-9
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**35-0103-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *35.01.05, Idaho Motor Fuels Tax Administrative Rules*

**35-0105-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**35-0105-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### *35.01.08, Mine License Tax Administrative Rules*

**35-0108-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**35-0108-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**35-0108-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**35-0108-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-8
**35-0108-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *35.01.10, Idaho Cigarette and Tobacco Products Taxes Administrative Rules*

**35-0110-2401** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
**35-0110-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### *35.02.01, Tax Commission Administration and Enforcement Rules*

***35-0201-2401*** *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7 (rulemaking terminated by agency)*

## *IDAPA 36 – IDAHO BOARD OF TAX APPEALS*

### *36.01.01, Idaho Board of Tax Appeals Rules*

**36-0101-2301** Notice of Rejection – Agency Filing of Final Rule – Partial Rejection of Pending Rule by HCR 47, Bulletin Vol. 24-9 (eff. 7-1-24)
**36-0101-2301** OARC Corrected Omnibus Notice of Legislative Action – Partial Rejection of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**36-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**36-0101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**36-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-11
**36-0101-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-8

## *IDAPA 37 – DEPARTMENT OF WATER RESOURCES*

### *37.03.01, Adjudication Rules*

**37-0301-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### *37.03.02, Beneficial Use Examination Rules*

**37-0302-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### *37.03.03, Rules and Minimum Standards for the Construction and Use of Injection Wells*

**37-0303-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *37.03.08, Water Appropriation Rules*

**37-0308-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**37-0308-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**37-0308-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-1 (PLR 2024)
**37-0308-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-10
**37-0308-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

### *37.03.09, Well Construction Standards Rules*

**37-0309-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

## *IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION*

### *38.05.01, Rules of the Division of Purchasing*

**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

### *39.02.03, Rules Governing Vehicle Dealer's Principle Place of Business and Claims to the Idaho Consumer Asset Recovery Fund*

**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 03 – Bulletin Vol. 24-5

*39.02.04, Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees*

***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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0204-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0222-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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*** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Rules Governing Conditional Vehicle Registration When Proof of Ownership is Insufficient"*
**39-0242-2301*** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**39-0242-2301*** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**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, [**Repealed**] Rules Governing Temporary Motor Vehicle Registration Permit*

**39-0246-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0246-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0260-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**39-0260-2301** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), 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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0276-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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*** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**Changes chapter name from: "Rules Governing Definitions Regarding Special Permits"*
**39-0301-2301*** OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**39-0301-2301*** Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
**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, [**Repealed**] Rules Governing Movement of Disabled Vehicles*

**39-0302-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0302-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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, [**Repealed**] Rules Governing Special Permits - General Conditions and Requirements*

**39-0303-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0303-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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, [**Repealed**] Rules Governing Special Permits - Overweight Non-Reducible*

**39-0304-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0304-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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, [**Repealed**] Rules Governing Special Permits - Oversize Non-Reducible*

**39-0305-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0305-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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, [**Repealed**] Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations*

**39-0306-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0306-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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
**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 06 – Bulletin Vol. 23-7

*39.03.07, [**Repealed**] Rules Governing Special Permits for Reducible Loads*

**39-0307-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0307-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0308-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0340-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0342-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0348-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0350-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**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

### *39.04.01, Rules Governing Aeronautics and Aviation*

**39-0401-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**39-0401-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**39-0401-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
**39-0401-2301** 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 04, Chapter 01 – Bulletin Vol. 23-6

## *IDAPA 42 – IDAHO WHEAT COMMISSION*

### *42.01.01, Rules of the Idaho Wheat Commission*

**42-0101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *IDAPA 43 – IDAHO OILSEED COMMISSION*

### *43.01.01, Rules Governing the Idaho Oilseed Commission*

**43-0101-2401** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

## *IDAPA 44 – OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR*

**44-0000-2401** Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA 15.04.01 – Bulletin Vol. 24-8

**44-0000-2400** Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapters 04.11.01, 11.04.01, 16.05.03, 20.01.01, 21.01.01, 38.05.01, 39.02.04, 39.02.72, 52.01.03, and 59.01.01 – Bulletin Vol. 24-7

## *IDAPA 50 – COMMISSION OF PARDONS AND PAROLE*

### *50.01.01, Rules of the Commission of Pardons and Parole*

**50-0101-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**50-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**50-0101-2301** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
**50-0101-2301** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-11
**50-0101-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-9

## *IDAPA 52 – IDAHO STATE LOTTERY COMMISSION*

### *52.01.03, Rules Governing Operations of the Idaho State Lottery*

**44-0000-2400** Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 52.01.03 – Bulletin Vol. 24-7

**52-0103-2401** Notice of Temporary and Proposed Rule, Bulletin Vol. 24-6 (eff. 7-1-24)T

*52-0103-2301 OARC Corrected Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-9 (Null and Void)*
*52-0103-2301 OARC Omnibus Notice of Legislative Action – Pending Rule Not Approved, Bulletin Vol. 24-8 (Null and Void)*
*52-0103-2301 Adoption of Pending Rule, Bulletin Vol. 24-1 (PLR 2024)*
*52-0103-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-12*
*52-0103-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-10*

## IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

### 55.01.03, Rules of Career Technical Centers

55-0103-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Rules of Career Technical Schools"*
55-0103-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
55-0103-2301* Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
55-0103-2301* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
55-0103-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

### 55.01.04, Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants

55-0104-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
55-0104-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
55-0104-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 23-12 (PLR 2024)
55-0104-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-10
55-0104-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

TMDLs:

### 58.01.01, Rules for the Control of Air Pollution in Idaho

58-0101-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-9

58-0101-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
58-0101-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
58-0101-2301 Adoption of Pending Rule, Bulletin Vol. 23-12 (PLR 2024)
58-0101-2301 Notice of Proposed Rulemaking, Bulletin Vol. 23-9

### 58.01.02, Water Quality Standards

58-0102-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-8

### 58.01.03, Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks

58-0103-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-6
58-0103-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-9

### 58.01.05, Rules and Standards for Hazardous Waste

58-0105-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-8

### 58.01.07, Rules Regulating Underground Storage Tank Systems

58-0107-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
58-0107-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
58-0107-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
58-0107-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-8
58-0107-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

### 58.01.08, Idaho Rules for Public Drinking Water Systems

58-0108-2401 Notice of Proposed Rulemaking, Bulletin Vol. 24-9

58-0108-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
58-0108-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
58-0108-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
58-0108-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
58-0108-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

### 58.01.10, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended

58-0110-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8

58-0110-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-9

### 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services

58-0114-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 24-9
58-0114-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### 58.01.22, Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities

58-0122-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-9
58-0122-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

### 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records

58-0123-2401 Notice of Temporary and Proposed Rule, Bulletin Vol. 24-7 (eff. 7-1-24)T

### 58.01.24, Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites

58-0124-2401* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-8
*Changes chapter name from: "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites"
58-0124-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-3

### 58.01.25, Idaho Pollutant Discharge Elimination System Rules

58-0125-2301* OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
*Changes chapter name from: "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"
58-0125-2301* OARC Omnibus Notice of Legislative Action – Approval of Pending Fee Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
58-0125-2301 Adoption of Pending Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-12 (PLR 2024)
58-0125-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 23-9
58-0125-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

## IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

### 59.01.01, Rules for the Public Employee Retirement System of Idaho (PERSI)

44-0000-2400 Notice of Omnibus Rulemaking – Revocation of Final Rule – Certain provisions rendered null and void pertaining to IDAPA chapter 59.01.01 – Bulletin Vol. 24-7

59-0101-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
59-0101-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
59-0101-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
59-0101-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-11
59-0101-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-9

### 59.02.01, Rules for the Judges' Retirement Fund

59-0201-2301 OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
59-0201-2301 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
59-0201-2301 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 24-1 (PLR 2024)
59-0201-2301 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 23-11
59-0201-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-9

## IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61-0000-2400 ***Rules of the Idaho State Public Defense Commission*** – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapters 01-04 – Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T [***temporary rule expires 10-1-24***]

61-0000-2300 ***Rules of the Idaho State Public Defense Commission*** – *Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapters 01-04 – Bulletin Vol. 23-5 (eff. 4-6-23)T* ***[temporary rule expires sine die 2024]***

### 61.01.01, General Provisions and Definitions

61-0000-2400 ***Rules of the Idaho State Public Defense Commission*** – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T [***temporary rule expires 10-1-24***]

61-0000-2300 ***Rules of the Idaho State Public Defense Commission*** – *Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 23-5 (eff. 4-6-23)T* ***[temporary rule expires sine die 2024]***

### *61.01.02, Requirements and Procedures for Representing Indigent Persons*

**61-0000-2400** ***Rules of the Idaho State Public Defense Commission*** – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 02 – Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T [***temporary rule expires 10-1-24***]

***61-0000-2300*** ***Rules of the Idaho State Public Defense Commission*** – *Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 02 – Bulletin Vol. 23-5 (eff. 4-6-23)T [**temporary rule expires sine die 2024**]*

### *61.01.03, Records, Reporting, and Review*

**61-0000-2400** ***Rules of the Idaho State Public Defense Commission*** – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 03 – Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T [***temporary rule expires 10-1-24***]

***61-0000-2300*** ***Rules of the Idaho State Public Defense Commission*** – *Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 03 – Bulletin Vol. 23-5 (eff. 4-6-23)T [**temporary rule expires sine die 2024**]*

### *61.01.04, Financial Assistance and Training Resources*

**61-0000-2400** ***Rules of the Idaho State Public Defense Commission*** – Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 04 – Bulletin Vol. 24-4 (eff. ***sine die*** 2024)T [***temporary rule expires 10-1-24***]

***61-0000-2300*** ***Rules of the Idaho State Public Defense Commission*** – *Notice of Omnibus Rulemaking – Adoption of Temporary Rule – Reauthorizes Title 01, Chapter 04 – Bulletin Vol. 23-5 (eff. 4-6-23)T [**temporary rule expires sine die 2024**]*

## *IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS*

### *62.01.01, Idaho Rules of Administrative Procedure*

**62-0101-2301** OARC Corrected Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-9 (eff. 7-1-24)
**62-0101-2301** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 24-8 (eff. 7-1-24)
**62-0101-2301** Adoption of Pending Rule (New Chapter), Bulletin Vol. 23-12 (PLR 2024)
**62-0101-2301** Notice of Proposed Rulemaking (New Chapter), Bulletin Vol. 23-10
**62-0101-2301** Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 23-6

## *IDAPA 63 – IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE*

### *63.05.04, Domestic Violence Council Grants*

****(Re-designated from IDAPA 16.05.04 to 63.05.04)***

**63-0504-2400** **IDAPA 63 – IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE** – Notice of Assignment of New IDAPA Designation Number – Redesignated to ***IDAPA 63, Title 05, Chapter 04*** from ***IDAPA 16, Title 05, Chapter 04*** – Bulletin Vol. 24-6 (eff. 7-1-24)

# Subject Index

## B

## D

## E

## I

## M

## N

## Q



## R

## T

## U