

**HEALTH & WELFARE COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2011 Legislative Session**

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

## **16.02.08 - VITAL STATISTICS RULES**

### **DOCKET NO. 16-0208-1001 (FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, Idaho Code, and House Bill 492 (2010).

**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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 138 through 140.](#)**

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

**This fee or charge is being imposed pursuant to Section 39-242, Idaho Code. The cost for a certified copy of a death certificate is being changed from \$13 to \$14.**

**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:

**The cost for system changes to implement the new fee is estimated to be at least \$27,900. \$13,950 of this is to be covered by the Idaho Association of Counties and the remaining \$13,950 is to come from Department (Vital Statistics) monies that are not from the state general fund.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Greg Heitman at (208) 334-5986.

DATED this 4th day of November, 2010.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) e-mail

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-242 and 39-5403, Idaho Code, and House Bill 492 (2010).

**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 15, 2010.

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:

**House Bill 492 (2010) revised the section of the law related to fees charged for certified copies of vital records certificates. It also increased by \$1 (per certified copy) the cost of a death certificate in order to fund training for county coroners. These rule changes are being made in order to bring the rules into alignment with the amended statute.**

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

**The cost for a certified copy of a death certificate is being changed from \$13 to \$14.**

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

**The cost for system changes to implement the new fee is estimated to be at least \$27,900. \$13,950 of this is to be covered by the Idaho Association of Counties and the remaining \$13,950 is to come from Department (Vital Statistics) monies that are not from the state general fund.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to bring the rules into alignment with the changes to statute made under House Bill 492 (2010).

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Greg Heitman at (208) 334-5986.

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 22, 2010.

DATED this 29th day of July, 2010.

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0208-1001**

**251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.**

**01. Certified Copies.** ~~The fee for the issuance of a certified copy of a certificate of death is fourteen dollars (\$14).~~ The fee ~~shall be thirteen (\$13) dollars per copy~~ for the issuance of a certified copy of ~~any other~~ vital record ~~is thirteen dollars (\$13) per copy.~~ ~~(3-13-02)( )~~

**02. Searches.** The fee ~~shall be thirteen (\$13) dollars~~ ~~for each search of the files for a death record when no record is found or no copy is made is fourteen dollars (\$14).~~ The fee for each search of the files ~~for any other vital event~~ when no record is found or no copy is made ~~is thirteen dollars (\$13).~~ ~~(3-13-02)( )~~

**03. Verifications.** Except for Idaho state executive agencies and public health districts, there ~~shall be a~~ fee ~~of nine (\$9) dollars~~ for verification of data from certificates ~~is nine dollars (\$9).~~ ~~(3-13-02)( )~~

**04. Statistical, Research, or Public Health Services.** The State Registrar ~~shall~~ assesses the fee for statistical, research or public health services. The costs ~~shall be~~ ~~are~~ calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a pro-rated basis to reflect the number of expected requests for the same information or service. ~~(12-26-83)( )~~

**05. Fees for Other Services.** ~~(12-31-91)( )~~

**a.** The fee ~~shall be thirteen (\$13) dollars~~ for establishing a new birth certificate pursuant to a report of adoption ~~is thirteen dollars (\$13).~~ ~~(3-13-02)( )~~

b. The fee ~~shall be thirteen (\$13) dollars~~ for establishing a delayed certificate of any event is thirteen dollars (\$13). ~~(3-13-02)~~( )

c. The fee ~~shall be thirteen (\$13) dollars~~ for establishing a new or amended birth certificate pursuant to a court order, a paternity affidavit or rescission, or a subsequent marriage affidavit is thirteen dollars (\$13). ~~(3-13-02)~~( )

d. A service fee of three dollars (\$3), in addition to the fourteen dollars (\$14) for a certified copy of a death certificate and thirteen (\$13) dollars for a certified copy of a stillbirth certificate, ~~shall must~~ be paid to the local deputy state registrar for securing each expedited certified copy of a vital record. ~~(3-13-02)~~( )

e. The fee ~~shall be ten dollars (\$10)~~ for filing a copy of "Request and Consent for Artificial Insemination" as required by Section 39-5403, Idaho Code, is ten dollars (\$10). ~~(12-31-91)~~( )

f. The fee ~~shall be thirteen dollars (\$13)~~ for copies of death certificates provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code, is fourteen dollars (\$14). The fee for any other vital event is thirteen dollars (\$13). ~~(3-13-02)~~( )

g. Fees for correction of certificates of death or stillbirth. ( )

i. When a funeral director must correct an error on a certificate of death ~~or stillbirth~~ for which certified copies have been issued, and a replacement copy has been requested, the correction fee ~~shall be thirteen (\$13)~~ is fourteen dollars (\$14) and ~~shall must~~ include issuance of one (1) certified copy of the corrected death ~~or stillbirth~~ record. ( )

ii. When a funeral director must correct an error on a certificate of stillbirth for which certified copies have been issued, and a replacement copy has been requested, the correction fee is thirteen dollars (\$13) and must include issuance of one (1) certified copy of the corrected stillbirth record. ( )

iii. The fee ~~shall be two dollars (\$2)~~ for additional (replacement) copies of certificates of death or stillbirth issued at the time of correction is two dollars (\$2). ~~(3-13-02)~~( )

iv. When a correction is requested for a certificate of death or stillbirth, but no replacement copy is requested, there is no charge to the requestor. ( )

h. A service fee of five dollars (\$5) will be added for priority mailing or special handling, including additional document requests. This fee will be in addition to the current fee(s) for the requested certified copy(ies) ~~and/or~~ search(es), or both. ~~(7-1-97)~~( )

**06. Waiver of Fee Requirement.** Fees may be waived for Idaho state executive agency and public health district requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. (12-26-83)

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.02.13 - RULES GOVERNING CERTIFICATION OF IDAHO WATER QUALITY LABORATORIES

DOCKET NO. 16-0213-1001 (CHAPTER REPEAL)

### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1007, 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, page 147.](#)**

**FEE SUMMARY:** The chapter of rules that contains the Drinking Water Laboratory Certification fees is being repealed in its entirety and rewritten under Docket No. 16-0213-1002. These fees are being repealed under the authority of Sections 56-1003 and 56-1007, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: As a result of rewriting this rule, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sandra Radwin at (208) 334-2235 x256.

DATED this 4th day of November, 2010.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720, Boise, ID 83720-0036

phone: (208) 334-5564  
fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1007, 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 15, 2010.

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 chapter of rules is being repealed under this docket. It is being completely revised, updated, and rewritten under Docket No. 16-0213-1002 immediately following this notice in this Bulletin.**

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

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

**As a result of this proposed rule change, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [May 5, 2010, Idaho Administrative Bulletin, Volume 10-5, page 26](#).

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules under this docket.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sandra Radwin at (208) 334-2235 x256.

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 22, 2010.

DATED this 29th day of July, 2010.

***IDAPA 16.02.13 IS BEING REPEALED IN ITS ENTIRETY***



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

### **16.02.13 - STATE OF IDAHO DRINKING WATER LABORATORY CERTIFICATION PROGRAM**

#### **DOCKET NO. 16-0213-1002 (CHAPTER REWRITE - FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1007, 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 Department is amending the proposed rule based on comments received from the Department of Environmental Quality (DEQ). The amendments clarify the incorporations by reference cited in this newly rewritten chapter.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 148 through 159.](#)**

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

**The Idaho Bureau of Laboratories is increasing the fees collected for certification of in-state laboratories and out-of-state laboratories seeking reciprocity.**

**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 proposed rule change, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sandra Radwin at (208) 334-2235 x256.

DATED this 4th day of November, 2010.

Tamara Prisock  
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***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1007, 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 15, 2010.

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:

**An internal Department audit of the Idaho Bureau of Laboratories practices in the spring of 2008 found that the Laboratory had not reviewed the certification of water quality laboratory fees and rules on an annual basis since the early 1990s. It was determined that some of the process and criteria outlined in the rules are not being used and that the fees need to be updated. As a result, this chapter of rules is being completely revised, updated, and rewritten under this docket.**

**This chapter of rules is being rewritten to conform to the U.S. Environmental Protection Agency's Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures Quality Assurance, Fifth Edition (EPA 815-R-05-004) and to update fees. Further, the rewritten rules provide laboratories and the Department a clear and accurate description of the criteria and processes required for initiating, maintaining, and revoking drinking water certification.**

Finally, the standard “required sections” of this chapter of rules are being updated to conform to the current requirements of the Office of the Administrative Rules Coordinator. Also, the obsolete sections at the end of the chapter are being deleted.

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

**The Idaho Bureau of Laboratories is increasing the fees collected for certification of in-state laboratories and out-of-state laboratories seeking reciprocity.**

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

**As a result of this proposed rule change, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted.

The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [May 5, 2010, Idaho Administrative Bulletin, Volume 10-5, page 26](#).

**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 federal regulations and the EPA manual contain the national standards used for the operation of certified drinking water laboratories. These are being incorporated by reference into these rules to give them the force and effect of law. Further, the documents are not being reprinted in this chapter of rules due to their length and format and because of the cost for republication.**

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sandra Radwin at (208) 334-2235 x256.

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 22, 2010.

DATED this 29th day of July, 2010.

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0213-1002**

**IDAPA 16, TITLE 02, CHAPTER 13**

**16.02.13 - STATE OF IDAHO DRINKING WATER LABORATORY  
CERTIFICATION PROGRAM**

**000. LEGAL AUTHORITY.**

Under Section 56-1003, 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. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.02.13, "State of Idaho Drinking Water Laboratory Certification Program." ( )

**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. ( )

**002. WRITTEN INTERPRETATIONS.**

The Department may have written statements in the form of guidance and policy documents that pertain to the interpretation of the rules in this chapter. Such written statements may be inspected and copies obtained at the Idaho Bureau of Laboratories, 2220 Old Penitentiary Rd. Boise, ID 83712. ( )

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

**004. INCORPORATION BY REFERENCE.**

**004. 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: [http://www.access.gpo.gov/nara/cfr/waisidx\\_10/40cfrv22\\_10.html](http://www.access.gpo.gov/nara/cfr/waisidx_10/40cfrv22_10.html). *The following sections from the Code of Federal Regulations are hereby incorporated by reference:* ( )

- a.* 40 CFR 141.6 (h), effective dates; ( )
- b.* 40 CFR 141.27, alternate testing program; ( )
- c.* 40 CFR 141.21(f)(3), total coliform rule; ( )
- d.* 40 CFR 141.23, inorganic methods; ( )
- e.* 40 CFR 141.24, organic methods; ( )
- f.* 40 CFR 141.25, methods for radioactivity; ( )
- g.* 40 CFR 141.131, disinfection by-products; ( )
- h.* 40 CFR 141.74(a), surface water treatment rule; ( )
- i.* 40 CFR 141.89, lead and copper; ( )
- j.* 40 CFR 141.402(c)(2), ground water; ( )
- k.* 40 CFR 141.704, long-term surface water treatment rule 2; ( )
- l.* 40 CFR 141.803, aircraft drinking water rules; ( )
- m.* 40 CFR 141, Appendix A to Subpart C, expedited method approval; and ( )
- n.* 40 CFR 143.4, secondary contaminants. ( )

**02. Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005.** 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 accessed in electronic format at: <http://www.epa.gov/safewater/methods/laboratorycertification.html>. ( )

**005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.**

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

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

**03. Street Address.** ( )

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ( )

**b.** The Idaho Bureau of Laboratories is located at 2220 Old Penitentiary Road, Boise, Idaho, 83712-8299. ( )

**04. Telephone.** ( )

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

**b.** The telephone number for the Idaho Bureau of Laboratories is (208) 334-2235. ( )

**05. Internet Website.** ( )

**a.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ( )

**b.** The webpage for the Department's Idaho Bureau of Laboratories (IBL) is found at: [www.statelab.idaho.gov](http://www.statelab.idaho.gov). ( )

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORD REQUESTS.**

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

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

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

**010. DEFINITIONS.**

**01. Analyst.** A person responsible for testing, quality control, and reporting of analytical results. ( )

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

**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. ( )

**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). ( )

- 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. ( )
- 06. Department.** The Idaho Department of Health and Welfare. ( )
- 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. ( )
- 08. Director.** The Director of the Idaho Department of Health and Welfare, or his designee. ( )
- 09. Discipline.** Areas of certification for the testing of drinking water, i.e., microbiology, radiochemistry, inorganic chemistry, and organic chemistry. ( )
- 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. ( )
- 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. ( )
- 12. LIMS.** Laboratory Information Management System. ( )
- 13. Laboratory Supervisor.** A person who directs the day-to-day activities of a CDWL. ( )
- 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. ( )
- 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. ( )
- 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. ( )
- 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. ( )
- 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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**23. Regulatory Agency.** The Idaho Department of Environment Quality (DEQ). ( )

**24. Regulatory Authority (RA).** The assigned drinking water Analyst III at a regional DEQ office. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

## **101. CERTIFICATION FEES.**

**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. ( )

**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. ( )

## **102. TYPES OF CERTIFICATION.**

**01. Certified.** A certified laboratory meets the regulatory performance criteria described in these rules. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

### **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. ( )

**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. ( )

**03. Availability of the Report from the Subcontracting Laboratory.** The report from the subcontracting laboratory must be available to the client upon request. ( )

**04. Availability of all Subcontracting Laboratory Records.** All subcontracting laboratory records must be available to the COs. ( )

### **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: ( )

- a. Physical set up of the laboratory; ( )
- b. Quality assurance program; ( )
- c. Personnel qualifications; ( )
- d. Equipment considerations; and ( )
- e. Adequacy of data handling. ( )

**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. ( )

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

**120. PERSONNEL QUALIFICATIONS.**

**01. General Supervisor Qualifications. ( )**

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**02. Supervisor Qualifications by Discipline. ( )**

**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. ( )

**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. ( )

**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. ( )

**03. Analyst or Equivalent Job Title.** ( )

**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. ( )

**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, he or she 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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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: ( )

- a.** Laboratory organization and responsibility; ( )
- b.** SOPs with dates of last revision; ( )
- c.** Laboratory sample receipt and handling procedure; ( )
- d.** Instrument calibration procedures; ( )
- e.** Analytical procedures; ( )
- f.** Data reduction, validation, reporting and verification; ( )
- g.** Type of quality control (QC) checks and frequency of use; ( )
- h.** List of schedules of internal and external system and data quality audits and inter

laboratory comparisons; ( )

i. Preventive maintenance procedures and schedules; ( )

j. Corrective action contingencies; and ( )

k. Record-keeping procedures. ( )

**03. Chain-of-Custody Procedures.** Each laboratory must have a procedure in place in the event the submitter requires an evidence chain-of-custody. ( )

**04. Maintenance of Records.** ( )

a. Each laboratory must 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. ( )

b. The laboratory must retain all records for a minimum of five (5) years from generation of the last entry in the records. ( )

c. A laboratory must notify public water system clients before disposing of records. ( )

d. Laboratories must be aware of and adhere to specific record retention as required for specific analytes or disciplines. ( )

**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. ( )

**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 his designee within the time limit specified by the CA. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**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. ( )

**02. Use of Specified Methods.** Each laboratory must be able to demonstrate it is using the methods specified in the drinking water regulations. ( )

**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. ( )

**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 but is not limited to the loss of a laboratory supervisor, equipment failure or breakdown, or change in location or ownership. ( )

**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: ( )

**a.** Failure to analyze a PT annually within acceptance limits specified in the regulations as demonstrated by a failure of a second PT; ( )

**b.** Failure to submit an incident report after failing a PT or to analyze a second PT; ( )

**c.** Failure to notify the CA within thirty (30) days of major changes; ( )

**d.** Failure to maintain the required standard of quality based upon observations made by the CO during an on-site evaluation; or ( )

**e.** Failure to report compliance data to the regulatory agency in a timely manner. ( )

**02. Procedure for Downgrading to Provisionally Certified Status.** ( )

**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 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. ( )

**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. ( )

**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. ( )

**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. ( )

**03. Criteria for Revoking Certification Status.** ( )

**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: ( )

- i. Reporting PT data from another laboratory as its own; ( )
- ii. Falsification of data or other deceptive practices; ( )
- iii. Failure to use the analytical methodology specified in the regulations; and ( )
- iv. For provisionally certified laboratories, failure to correct the identified deficiencies that lead to the downgrading of certification status. ( )

**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. ( )

**04. Procedure for Revocation.** ( )

**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. ( )

**b.** If the laboratory responds with an acceptable written corrective action plan, including documentation of implementation, the revocation will be suspended. ( )

**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. ( )

**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 which 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. ( )

**211. -- 999. (RESERVED).**

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

**16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS**

**DOCKET NO. 16-0506-1002 (FEE RULE)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1004A, Idaho Code, and 42 USC 16961 Section 152.

**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 pending rule is being adopted as proposed. The complete text of the proposed rule that added Child Protection Central Registry checks was published in the [July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7, pages 45 and 46.](#)**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 56-1004A and 56-1007, Idaho Code:

**The fee amount for providing the Idaho Child Protection Central Registry checks is based on costs incurred to complete each check. The fee amount to be charged to other states is \$20 per check.**

**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:

The Department estimates that approximately 840 registry checks will generate \$16,900 in additional revenue to the dedicated fund for SFY 2011, and will have no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bellomy (208) 334-0609.

DATED this 121th day of November, 2010.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
[dhwrules@dhwidaho.gov](mailto:dhwrules@dhwidaho.gov) e-mail

***THIS NOTICE PUBLISHED WITH THE TEMPORARY & PROPOSED FEE RULE***

**EFFECTIVE DATE:** The effective date of this temporary rule is **July 1, 2010**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1004A, Idaho Code, and 42 USC 16961 Section 152.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 21, 2010.

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

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

**The Department is required to check the Idaho Child Protection Central Registry when requested by another state when an individual applies to become a foster parent or adoptive parent. Each state is required to check its child abuse registry when an individual has resided in the state within the past five years. Because of budgetary constraints, the Department is adding a fee to cover the administrative costs that occur when these checks are provided. This rule provides the guidelines and fee for an Idaho Child Protection Central Registry Check.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a)(b), Idaho Code, the Governor has found that temporary adoption of these rules are appropriate for the following reasons:

**This temporary fee rule is needed to protect children from immediate danger.**

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

**The fee amount for providing the Idaho Child Protection Central Registry checks is based on costs incurred to complete each check. The fee amount to be charged to other states is \$20 per check.**

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

**The Department estimates that approximately 840 registry checks will generate \$16,900 in additional revenue to the dedicated fund for SFY 2011, and will have no fiscal impact to the state general fund.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rule change is necessary to protect the public health, safety, or welfare, and to comply with governing law.

**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 Steve Bellomy (208) 334-0609.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 28, 2010.

DATED this 27th day of May, 2010.

***THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0506-1002***

**121. -- ~~1294~~. (RESERVED).**

**125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.**

**Under the provisions in 42 USC 16961 Section 152, a check of the Idaho Child Protection Central Registry may be requested by another state for foster or adoptive placement cases. ( )**

**01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted by mail, facsimile transmission, or e-mail attachment on state letterhead with the requesting authority contact**

information, and must include the following: ( )

**a.** Name of the subject of the check, and any aliases; ( )

**b.** Date of birth and Social Security Number of the subject of the check; and ( )

**c.** A notarized signature of the subject of the check authorizing the request. ( )

**02. Fee Amount.** The fee for an Idaho Child Protection Central Registry check is twenty dollars (\$20) for each subject checked. ( )

**03. Department Response.** A response will be returned to the state initiating the request for the check within fourteen (14) days of receipt of the request. The Department's contact information will be included along with the result of the check. ( )

**126. -- 129. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING**  
**DOCKET NO. 16-0602-1002 (FEE RULE)**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, 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 pending rule is being adopted as proposed. The complete text of the proposed rule for the daycare licensing fees was published in the [July 7, 2010 Idaho Administrative Bulletin](#), Vol. 10-7, pages 80 and 81.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 39-1107, Idaho Code:

**Section 39-1107, Idaho Code, established a maximum licensing fee for a basic daycare license not to exceed \$175 for daycare centers, and \$100 for group daycare facilities and a family daycare home voluntarily licensed. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check.**

**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:

**The Department estimates that the cost for the State Fiscal Year 2011 will be approximately \$69,000, which is the difference for licensing fees collected and expenditures for health and safety inspections. This cost will be covered by the Federal Child Care Development Funds which is 100 percent federally funded.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marian Woods at (208) 334-0683.

DATED this 12th day of November, 2010.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) e-mail

***THIS NOTICE PUBLISHED WITH THE TEMPORARY & PROPOSED FEE RULE***

**EFFECTIVE DATE:** The effective date of this temporary rule is **July 1, 2010**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 21, 2010.

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:

**Title 39, Chapter 11, Idaho Code, established a statewide system for the protection of children in daycare facilities which included licensing fees. The rule amendments in this docket provide requirements for licensing and inspections fees for daycare licensing that were effective on January 1, 2010.**

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

**These temporary rules are necessary to protect the public health, safety, and welfare of children in daycare and to comply with amendments to statutes that were effective on January 1, 2010.**

**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:

**Section 39-1107, Idaho Code, established a maximum licensing fee for a basic daycare license not to exceed \$175 for daycare centers, and \$100 for group daycare facilities and a family daycare home voluntarily licensed. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check.**

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

**The Department estimates that the cost for the State Fiscal Year 2011 will be approximately \$69,000, which is the difference for licensing fees collected and expenditures for health and safety inspections. This cost will be covered by the Federal Child Care Development Funds which is 100 percent federally funded.**

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted during 2010, because extensive rulemaking negotiations were held in 2009 under Docket No. 16-0602-0901, to meet new statutory requirements effective January 1, 2010.

**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 Landis Rossi (208) 334-5688.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 28, 2010.

DATED this 27th day of May, 2010.

***THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0602-1002***

**301. -- ~~30~~19. (RESERVED).**

**320. DAYCARE LICENSING FEES.**

The nonrefundable licensing fee must be paid to the Department prior to the issuance of a daycare license or renewal. ( )



**01. Daycare Licensing Fee Amounts.** The maximum fee for initial application of an unlicensed daycare or renewal must not exceed the following amounts. ( )

**a.** Daycare center license fee must not exceed one hundred seventy-five dollars (\$175). ( )

**b.** Group daycare facility license fee must not exceed one hundred dollars (\$100). ( )

**c.** Family daycare home voluntary license fee must not exceed one hundred dollars (\$100). ( )

**02. Daycare Fire Inspection Fee.** Daycare fire inspection fees are payable to the local fire department or fire district official. The fire inspection fee can not exceed twenty-five dollars (\$25). The fire inspection fee will be deducted from the licensing fee payable to the Department with proof of the inspection and amount paid. ( )

**321. -- 399. (RESERVED).**

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.20 - RULES FOR ADMINISTRATION OF DRINKING WATER LOAN PROGRAM**

#### **DOCKET NO. 58-0120-0901 (FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule will become final and effective if approved during the First Regular Session of the Sixty-first Idaho Legislature by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution. This rule was adopted as a temporary rule by the Board in November 2009 and is currently effective.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending fee rule. This action is authorized by Chapters 1 and 76, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the [Idaho Administrative Bulletin, December 2, 2009, Vol. 09-12, pages 180 through 186](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/drinking\\_water\\_loans/58\\_0120\\_0901\\_pending.cfm](http://www.deq.idaho.gov/rules/drinking_water_loans/58_0120_0901_pending.cfm) or by contacting the undersigned.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FEE SUMMARY:** Unless this fee is implemented in FY 2010, DEQ will lose the capacity to assist drinking water systems' facility planning efforts and may have to curtail administrative oversight of the loan program due to shrinking administrative funds. Imposition of the fee is authorized by Sections 39-119 and 39-3627(4), Idaho Code.

**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:** For assistance on technical questions concerning this rulemaking, contact Tim Wendland at (208)373-0439 or [tim.wendland@deq.idaho.gov](mailto:tim.wendland@deq.idaho.gov).

Dated this 26th day of April, 2010.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

***THIS NOTICE PUBLISHED WITH THE TEMPORARY & PROPOSED FEE RULE***

**EFFECTIVE DATE:** The temporary rule is effective **December 2, 2009**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) has initiated proposed rulemaking. This action is authorized by Chapters 1 and 76, 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 December 16, 2009. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Currently, State General Fund monies support facility planning efforts. The recent strain on the State's General Fund resources is driving an effort to find alternative funding sources. If the Drinking Water Loan Program were to collect loan fees, those loan fees could be used as a substitute for State General Fund monies in supporting Idaho communities' infrastructure planning efforts. With the expected reduction of State General Fund support for drinking water facility planning efforts, the establishment of an alternate funding source will continue support for Idaho drinking water systems to prepare for infrastructure construction.

The purpose of this rulemaking is to revise the Rules for Administration of Drinking Water Loan Program to allow DEQ to collect a fee in the form of a percentage of each loan. The fees collected will be used to provide funds for supporting planning efforts and for loan program administration. The actual interest rate charged on Drinking Water State Revolving Fund (DWSRF) loans will be reduced by the amount of the fee charged so that there is no cost to the communities using the DWSRF loans. The fee revenues can then be used to fund planning grants (as currently allowed for in the Rules for Administration of Planning Grants for Public Drinking Water Facilities, IDAPA 58.01.22). The proposed revisions are consistent with the loan fee structure set out in Section 032 of the Rules for Administration of Water Pollution Control Loans, IDAPA 58.01.12.

Cities, counties, districts and associations that own and operate public drinking water systems may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. It is this addition to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the spring of 2010 for adoption as a pending rule. The pending rule is expected to be final and effective upon the adjournment of the 2011 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** Adoption of this rule would reclassify a portion of the interest due on loans to a loan fee with no monetary effect on loan recipients. Due to the nature of this rulemaking, DEQ did not conduct negotiations.

**SECTION 39-107D, IDAHO CODE, 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.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary for protection of public health and to confer a benefit. Adoption of this temporary rule would confer a benefit to the citizens of the state of Idaho in that a reserve fund would become available to supplement planning efforts. In addition, the Governor has found that the fee imposed in this rule meets the criteria set out in Section 67-5226(2), Idaho Code.

**FEE SUMMARY:** Unless this fee is implemented in FY 2010, DEQ will lose the capacity to assist drinking water systems' facility planning efforts and may have to curtail administrative oversight of the loan program due to shrinking administrative funds. Imposition of the fee is authorized by Sections 39-119 and 39-3627(4), Idaho Code.

**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 questions concerning this rulemaking, contact Tim Wendland at (208) 373-0439 or [tim.wendland@deq.idaho.gov](mailto:tim.wendland@deq.idaho.gov).

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before December 30, 2009.

DATED this 12th day of November, 2009.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208) 373-0418  
Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

***THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 58-0102-1001***

**010. DEFINITIONS.**

For the purpose of the rules contained in this chapter, the following definitions apply: (3-23-98)

**01. Applicant.** Any qualifying entity making application for Drinking Water loan funds. (5-3-03)

**02. Board.** The Idaho Board of Environmental Quality. (4-2-08)

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

**04. Close or Closing.** The date on which the borrower issues and physically delivers to the Department the bond or note evidencing the loan to the borrower, specifically determining the principal, interest and fee amounts that shall be repaid and the schedule for payment. ( )

**045. Community Water System.** A public drinking water system that: (5-3-03)

**a.** Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (3-23-98)

**b.** Regularly serves at least twenty-five (25) year-round residents. (3-23-98)

**056. Construction.** The building, erection, acquisition, alteration, reconstruction, improvement, or extension of public drinking water system facilities, including preliminary planning to determine the economic and engineering feasibility of public drinking water system facilities, the engineering, architectural, legal, fiscal, and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, other action necessary in the construction of public water system facilities, the inspection and supervision of the construction, and start-up of the associated facilities. (5-3-03)

**067. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (5-3-03)

**078. Department.** The Idaho Department of Environmental Quality. (3-23-98)

**089. Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)

**0910. Disadvantaged Community.** The service area of a public water system that meets affordability criteria established by the Department of Environmental Quality after public review and comment. (3-23-98)

**101. Disadvantaged Loans.** Loans made to a disadvantaged community. (3-23-98)

**112. Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. (5-3-03)

**123. Eligible Costs.** Costs which are necessary for planning, designing, and/or constructing public water system facilities. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. (5-3-03)

**134. Eligible Systems.** Public and private community water systems and nonprofit noncommunity water systems. (3-23-98)

**145. Engineering Report.** A report prepared to address a specific portion of the system or facility for which modifications are being designed. These reports address specific purpose and scope, design requirements, and evaluate feasible treatment, storage, or distribution alternatives for the public drinking water system to identify the cost effective and environmentally sound alternative. Engineering reports are generally project specific as opposed to an overall system-wide plan such as a master plan or a facility plan. An engineering report shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Guidance on how to prepare an engineering report may be found in the Handbook. (4-2-08)

**156. Environmental Impact Statement (EIS).** A document prepared by the applicant when the Department determines that the proposed drinking water construction 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 Chapter 5 of the Handbook may be used as guidance when preparing an EIS. (4-2-08)

**167. Environmental Information Document (EID).** Any written environmental assessment prepared by an applicant or consultant describing the environmental impacts of a proposed drinking water construction project. This document will be of sufficient scope to enable the responsible official to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (4-2-08)

**178. Facility Plan.** A plan that describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the system/facility, including upgrades and additions. The plan also includes a systematic evaluation of feasible alternatives considering demographic, topographic, hydrologic and institutional characteristics of a project area to demonstrate that the selected alternative is cost effective and environmentally sound. A facility plan is sometimes referred to as a master plan or facilities planning study and is an overall system-wide plan as opposed to a project specific plan. A facility plan shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Guidance on how to prepare a facility plan may be found in the Handbook. (4-2-08)

**189. Financial Management System.** Uniform method of recording, summarizing, and analyzing financial information about the public water system facility. (3-23-98)

**1920. Finding Of No Significant Impact (FONSI).** A document prepared by the Department briefly 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 include the environmental assessment or a summary of it and shall note any other environmental documents related to it. (4-2-08)

**201. Handbook.** "Drinking Water Loan Handbook of Procedures." (5-3-03)

**212. Ineligible Costs.** Costs which are described in Subsection 041.05. (5-3-03)

**223. Managerial Capability.** The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (5-3-03)

**234. Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (5-3-03)

**245. Noncommunity Water System.** A public water system that is not a community water system. (3-23-98)

**256. Nonprofit Noncommunity Water System.** A public water system that is not a community water system and is governed by Section 501 of the U. S. Internal Revenue Code and includes but is not limited to: state agencies, municipalities, and nonprofit organizations such as churches and schools. (3-23-98)

**267. Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least 25 (twenty-five) of the same persons over six (6) months per year. (3-23-98)

**278. O & M Manual.** Operation and Maintenance Manual is a guidance and training manual outlining the optimum operation and maintenance of the public water system facility or its components. (3-23-98)

**289. 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). (3-23-98)

**2930. Plan of Operation.** A schedule of specific actions and completion dates for construction, start-up, and operation of the public water system facility. (5-3-03)

**301. Priority List.** A list of proposed drinking water projects rated by severity of risk to public health, the necessity to ensure compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), population affected, and need on a household basis for protection of Idaho's public drinking water. (5-3-03)

**312. 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." (4-2-08)

**323. 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 water system or irrigation system and which establishes and maintains a dedicated loan repayment source. (4-2-08)

**334. Rehabilitation.** The repair or replacement of segments of drinking water facilities. (5-3-03)

**345. Reserve Capacity.** That portion of the system in the planned facilities to handle future drinking water demand. (5-3-03)

**356. State.** The state of Idaho. (3-23-98)

**367. Supplier or Provider of Water.** Any person who owns and/or operates a public water system. (3-23-98)

**378. Suspension.** An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-23-98)

**389. Technical Capability.** The ability of the public drinking water system to comply with existing and expected drinking water rules. (5-3-03)

**3940. Termination.** An action by the Director to permanently terminate a loan contract



prior to project completion for a specific cause. Terminated contracts shall not be reinstated. (3-23-98)

**401. Unreasonable Risks to Health (URTH).** Refers to a level of contamination that presents an “unreasonable risk to health” and is determined on a contaminant by contaminant basis by the U.S. Environmental Protection Agency. (5-3-03)

**42. 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, which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the public water system. (4-2-08)

**423. Water System Protection Ordinance.** An ordinance adopted pursuant to Chapter 32, Title 42, Idaho Code, or other applicable law which requires new connections to be properly designed and constructed, which prohibits cross-connections with non-potable water sources (and in all ways protects the water system from injection of contaminants), and which provides for fees for service from users or classes of users. (3-23-98)

**434. Water Treatment Plant.** That portion of the public drinking water system whose primary purpose is to remove contaminants. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. LOAN FEE.**

**01. Loan Fee.** The Department may elect to impose a loan fee when necessary to offset the costs of administering the loan program, to provide planning assistance, or to otherwise facilitate the operation of the Drinking Water State Revolving Fund (DWSRF) effort. The Department may impose a loan fee on loans scheduled to close after December 2, 2009. The loan fee shall not exceed one percent (1%) of the unpaid balance of the loan at the time each loan payment is due. ( )

**02. Determination of Loan Fee.** The Department shall determine the amount of the loan fee on a yearly basis and shall charge the same loan fee on all loans closed during any one fiscal year. The amount of the loan fee shall be included in the Intended Use Plan, as described by Section 1452 of the Safe Drinking Water Act (42 U.S.C. Section 300j-12). In determining the amount of the loan fee, the Department shall consider: ( )

**a.** The Department’s anticipated costs of administering the loan program for the upcoming fiscal year, including salaries and overhead; ( )

**b.** Any Department costs related to providing technical assistance for the loan program for the upcoming fiscal year; ( )

**c.** The amount of money generated from loan fees in previous fiscal years available

for use in the upcoming fiscal year; and ( )

d. The anticipated demand for planning assistance to supplement regular appropriations and other related needs to support the DWSRF loan program. ( )

03. **Effect on Loan Interest Rate.** The loan interest rate, as described in Subsection 050.05, will be reduced by the corresponding percentage of the loan fee. ( )

04. **Payment of Loan Fee.** The loan fee shall be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period. ( )

~~0323.~~ -- 039. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. LOAN OFFER AND ACCEPTANCE.**

**01. Loan Offer.** Loan offers shall be delivered to successful applicants by representatives of the Department or by registered mail. (3-23-98)

**02. Acceptance of Loan Offer.** Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period, the loan funds may be offered to the next project on the priority list. (3-23-98)

**03. Acceptance Executed as a Contract Agreement.** Upon signature by the Director or the Director's designee and upon signature by the authorized representative of the qualifying entity, the loan offer shall become a contract. Upon accepting a loan offer, a qualifying entity becomes a loan recipient. The disbursement of funds, pursuant to a loan contract, is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who shall be paid in whole or in part, directly or indirectly, with loan funds. No third party shall acquire any rights against the state or its employees from a loan contract. (4-2-08)

**04. Estimate of Reasonable Cost.** All loan contracts shall include the eligible costs of the project. Some eligible costs may be estimated and disbursements may be increased or decreased as provided in Section 060. (5-3-03)

**05. Terms of Loan Offers.** The loan offer shall contain such terms as are prescribed by the Department including, but not limited to: (3-23-98)

**a.** Terms consistent with these rules, the project step to be funded under the loan offer, and Chapter 76, Title 39, Idaho Code; (5-3-03)

**b.** Special clauses as determined necessary by the Department for the successful investigation, design, construction, and management of the project; (3-23-98)

**c.** Terms consistent with applicable state and federal laws pertaining to engineering reports or facility plans, design, and construction (including the Public Works Contractors License Act (Idaho Code Sections 54-1901 through 54-1924)); the Public Contracts Bond Act (Idaho Code Sections 54-1925 through 54-1930); and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) requirements for projects funded with loan moneys of federal origin; (4-2-08)

**d.** Requirement for the prime engineering firm(s), retained for engineering services, to carry professional liability insurance to protect the public from negligent acts of the engineer and errors of omission of a professional nature. The total aggregate of the professional liability of the engineer insurance shall be one hundred thousand dollars (\$100,000) or twice the amount of the fee of the engineer, whichever is greater. Professional liability insurance must cover all such services rendered for all project phases which are state funded; (4-2-08)

**e.** The project shall be bid, contracted, and constructed according to the current edition of Idaho Standards for Public Works Construction and the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) unless the qualifying entity has approved and adopted acceptable public works construction standards approved by the Department; (5-3-03)

**f.** The loan interest rate for loans made during the state fiscal year beginning July 1 shall be established by the Director. The interest rate shall be a fixed rate in effect for the life of the loan. The rate may equal but shall not exceed the current market rate; (5-3-03)

**g.** The loan fee pursuant to Section 032; ( )

**gh.** All loans, except disadvantaged loans, must be fully amortized within a period not to exceed twenty (20) years after project completion. Disadvantaged loans must be fully amortized within a period not to exceed thirty (30) years. The borrower may elect for either a schedule of semi-annual repayments or annual repayments at the time the loan is finalized; and (3-23-98)

**hi.** Repayment default shall occur when a scheduled loan repayment is thirty (30) days past due. If default occurs, the Department may invoke appropriate loan contract provisions and/or bond covenants. (5-3-03)