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ADMINISTRATIVE RULES REVIEW
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2011 Legislative Session

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DOCKET NO. 31-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-401, 61-404, and 61-601, 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 Commission received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7, pages 96 through 104.](#)

FISCAL IMPACT: There is no fiscal impact on the State General Fund in excess of ten thousand dollars (\$10,000) during the fiscal year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 26th day of August, 2010.

Barbara Barrows
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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-401, 61-404, and 61-601, 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 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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Public Utilities Commission is proposing several amendments to its Rules of Procedure. The reasons for the proposed changes include: conform the Commission's testimony and transcript Rules 231 and 286 to changes in the Supreme Court's Appellate Rules; change Rule 43 (Representation of Parties) to conform to recent Supreme Court opinions regarding the representation of partnerships, corporations and other entities in Commission proceedings; add Rule 20 to make it easier to determine when telephone companies are no longer conducting business in Idaho; add a definition of "utility" to Rule 5; and make other changes to improve the clarity of rules (Rules 16, 125, 301) and correct citations, cross-references, or an Internet address (Rules 0, 4, 19, 121).

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund in excess of ten thousand dollars (\$10,000) during the fiscal year.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, formal negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the [April 7, 2010 Idaho Administrative Bulletin, Vol. 10-4, page 25](#). A public rulemaking workshop was held on April 21, 2010.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

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

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of May, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-0101-1001

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code; Chapters ~~9,~~ 8 through 10, ~~and~~ 13, 15 through 17, Title 61, Idaho Code; Chapters 3 and 4, Title 62, Idaho Code; the Telecommunications Act of 1988, as amended, Chapter 6, Title 62; ~~and~~ Chapters 12, ~~Title 62, Idaho Code, Chapter~~ and 13, Title 62, Idaho Code; and the particular authority of Sections 56-904, 61-304 through 61-309, 61-501, ~~61-502, 61-503~~ through 61-505, 61-507, 61-516, 61-538, 61-541, 61-601 through 61-607, 61-610 through 61-619, 61-6201 through 61-626, 61-803 through 61-806, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 61-1603 through 61-1607, 61-1703 through 61-1709, 62-304, 62-305, 62-424, 62-6042, ~~62-605, 62-608~~ through 62-612, 62-610A through 62-610F, 62-614 through 62-616A, 62-619, 62-622, 62-622A, 62-1201 through 62-1207, 62-1303, ~~and~~ 62-1304, 63-3029I, and 67-6528, Idaho Code. ~~(4-5-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

Except as provided by statute and Rules 26, 52, 67, ~~and~~ 233, and 287, all materials filed with the Commission pursuant to these rules and all materials issued by the Commission pursuant to these rules are public documents subject to inspection, examination and copying. ~~(7-1-93)~~()

005. DEFINITIONS (RULE 5).

Terms of art used throughout these rules are defined within the rules themselves. The term "utility" used in these rules includes every common carrier, pipeline corporation, gas corporation, electric corporation, telephone corporation, and water corporation as defined in Chapter 1, Title 61, Idaho Code, and Section 62-603, Idaho Code. ~~(7-1-93)~~()

(BREAK IN CONTINUITY OF SECTIONS)

016. SERVICE BY COMMISSION - DESIGNATION OF AGENT (RULE 16).

The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

01. Service of Orders and Notices. All notices and orders served by the Commission may be served by United States mail. Notices and orders may also be served by electronic mail in cases designated by the Commission. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission Secretary's official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (3-16-04)

02. Service of Summonses and Complaints. The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. ~~All utilities must maintain on file with the Commission Secretary a designation of such a person.~~ Summonses and complaints directed to regulated utilities or other persons shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (4-5-00)()

03. Designation of Agent for Service. All utilities shall designate a person as their agent to be served with summons and complaints. Utilities shall be responsible for maintaining on file with the Commission Secretary the current name, mailing address and e-mail address of the person designated as the agent to receive service. ()

(BREAK IN CONTINUITY OF SECTIONS)

019. INCORPORATED BY REFERENCE -- IDAHO BAR COMMISSION RULE (RULE 19).

Rule 43 incorporates by reference Idaho Bar Commission Rule 22~~2~~7 (Limited Admission/Pro Hac Vice). Bar Rule 22~~2~~7 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 22~~2~~7 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at ~~www2.state.id.us/isb/~~ under the "Rules" icon www.isb.idaho.gov. Bar Rule 22~~2~~7 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. (3-16-04)()

020. ~~(RESERVED)~~ DISCONTINUANCE OF TELECOMMUNICATIONS SERVICE (RULE 20).

A telephone corporation that intends to discontinue service in Idaho shall file a notice with the Commission at least ninety (90) days in advance of the date that it intends to cease operations. The telephone corporation proposing to discontinue basic local exchange or message telecommunications services shall also publish a notice of such discontinuance in a legal newspaper circulated in its service area pursuant to Section 62-612, Idaho Code. If the telephone corporation held any customer deposits or advance payments, the telephone corporation shall indicate in the notice how the deposits are to be returned to customers. See also IDAPA 31.41.01, "Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to

Customer Service Regulation by the Idaho Public Utilities Commission,” Section 312 ()

(BREAK IN CONTINUITY OF SECTIONS)

043. REPRESENTATION OF PARTIES ~~AT PROCEEDINGS~~ (RULE 43).

~~Recognizing that p~~Proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature, ~~appearances and representation of parties at hearing shall be as follows:~~
(3-16-04)()

01. Administrative Proceedings. ~~Administrative proceedings before the Commission include matters such as the filing of tariff schedules, tariff advices, price lists, certificates to provide local exchange service, interconnection agreements, rulemaking, written comments in modified procedure, or written comments provided at a customer hearing. These filings may be made by a natural person pro se, a partner in a partnership, an employee or officer of a corporation, or a licensed attorney.~~ ()

02. Quasi-Judicial Proceedings. ~~The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the Commission include matters such as formal complaints, petitions, motions, applications for modified procedure or technical/evidentiary hearings. Representation of parties of these types of proceedings shall be as follows:~~ ()

01a. Natural Person. ~~A natural person must may represent himself or herself or be represented by a duly authorized employee, or an licensed attorney.~~ (3-16-04)()

02b. Partnership. ~~A partnership must or corporation shall be represented by a partner, duly authorized employee, or an licensed attorney.~~ (7-1-93)()

03. Corporation. ~~A corporation must be represented by an officer, duly authorized employee, or an attorney.~~ (7-1-93)

04c. Other Entity. ~~A municipal corporation, a state, federal, tribal, or local government agency, or entity, an unincorporated association, or a non-profit organization, must or other entity shall be represented by an officer, a duly authorized employee or an licensed attorney.~~ (7-1-93)()

053. Attorney Representation. ~~Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 2227 (Limited Admission/Pro Hac Vice). The Commission adopts by incorporation Bar Rule 2227 as modified below.~~ (3-16-04)()

a. ~~Given the administrative nature of many proceedings, limited admission by out-of-state attorneys will not be necessary in conjunction with administrative filings such as tariff schedules, tariff advices, price lists, certificates to provide local exchange service, and interconnection agreements~~ proceedings. Out-of-state attorneys representing the same party in

one (1) or more quasi-judicial ~~cases (such as formal complaints, motions, petitions, and applications that request modified procedure or an evidentiary hearing)~~; **proceedings** must request limited admission at least one (1) time per calendar year. ~~(3-16-04)~~()

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 2227(1) with references to the Commission instead of the court. ~~(3-16-04)~~()

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed ~~by~~ **in** Bar Rule 2227(j). ~~(3-16-04)~~()

(BREAK IN CONTINUITY OF SECTIONS)

121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).

01. Utility Applications to Change Rates. Applications by any public utility **subject to Title 61, Idaho Code**, to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: ~~(4-5-00)~~()

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, ~~when a general change in recurring rates is proposed~~, a statement showing how the application has been brought to the attention of affected customers ~~under IDAPA 31.21.02.102 or 31.41.02.102~~ **and a copy of the press release and customer notice required by Rule 125.** ~~(7-1-93)~~()

d. A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)

e. If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies. (7-1-93)

f. Workpapers or documentation showing how test year data were adjusted. (7-1-93)

g. If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

02. Proposals Based upon Computer Modeling. In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (4-5-00)

03. Grounds for Returning or Dismissing Application. Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

125. NOTICES TO CUSTOMERS OF PROPOSED CHANGES IN RATES (RULE 125).

01. Customer Notice of a Change in Rates. ()

a. If a utility is requesting a rate increase, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the utility's need for additional revenue and the dollar amount requested. The notice shall give the proposed overall percentage change from current rates as well as the proposed percentage increase in revenue for each major customer class. ()

b. If the utility is requesting a rate decrease, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the reason for the decrease, the overall dollar amount of the proposed decrease, and the proposed percentage decrease for each major customer class. ()

c. The customer notice shall make it clear that the application is a proposal, subject to public review and a Commission decision. It shall also inform customers that a copy of the utility's application is available for public review at the offices of both the Commission and the utility, and on the Commission's homepage. (5-8-09)()

02. Timing of Notice for Trackers or Annual Cost Adjustments. Tracker

adjustments occasioned by federal action that result in an increase or decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. ~~All~~Other tracker or annual cost adjustment cases that result in an increase in rates remain subject to the requirements of advance notice contained in this rule. Other tracker or annual cost adjustment cases that result in a decrease in rates may be brought to the attention of customers in compliance with this rule after being approved by the Commission. ~~(5-8-09)~~()

03. Distribution of Customer Notices. The customer notices referred to in Subsection 125.01 may be mailed to customers as bill stuffers over the course of a billing cycle or may be contained in additional comment pages to the customer's monthly bill. If additional comment pages are used, the information required by this rule is to be clearly identified, easily understood, and pertain only to the proposed rate change. (5-8-09)

04. Press Release. In instances covered by Subsection 125.01, the utility shall also send a press release containing, at minimum, the same information presented in the customer notices to all newspapers, radio, and television stations listed on the Commission's news organization list for that utility. The press releases shall be mailed or delivered simultaneously with filing of the application. (5-8-09)

05. Filing of a Press Release and Customer Notice. A copy of the press release and customer notice shall be filed with the application. (5-8-09)

06. Purposes and Effects of This Rule. The purposes of Subsections 125.01 through 125.05 of this rule are to encourage wide dissemination to customers of information concerning proposed rate changes for utility services. It is not a purpose of these subsections to create due process or other procedural rights in customers by expanding, contracting, or otherwise modifying the notice and due process rights of customers under the Public Utilities Law and the Commission's Rules of Procedure, IDAPA 31.01.01. Accordingly, Subsections 125.01 through 125.05 of this rule create no individual procedural rights in any customer for notice that would give rise to a due process or other procedural claim cognizable by the Commission, but failure to comply with Subsections 125.01 through 125.05 of this rule can be grounds for returning an application for incompleteness. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

231. PREPARED TESTIMONY AND EXHIBITS (RULE 231).

01. Prepared Testimony May Be Required. Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (7-1-93)

02. Format for Prepared Testimony. (7-1-93)

a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (7-1-93)

b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page).

(7-1-93)

c. Prepared testimony must be submitted on white eight and one-half by eleven inch (8-1/2" x 11") paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no more than ten (10) characters per inch and no ~~more~~ less than twenty-five (25) lines of double-spaced testimony or more than thirty (30) lines per page. Each page may be printed on the front and back (duplexed). ~~(5-8-09)~~()

d. Each line of prepared testimony must be numbered at the left margin (except single-spaced quotations or tables of numerical data, which may be numbered at the left margin as though they were double-spaced). Each page of testimony must have a one and one-half (1-1/2) inch left margin that will allow the page to be bound on its left side without obscuring the printed material. Indentations for paragraphing and for "Q" and "A" must be seven (7) spaces. (7-1-93)

e. Each page of prepared testimony must be numbered at the lower right corner and must be blank in the center of the bottom margin to allow the reporter to insert transcript page numbers there. Each page of prepared testimony must have at least a one-inch (1") top and bottom margin. (7-1-93)

f. Each page of prepared testimony must contain the witness's surname followed by the designation "Di" (signifying direct testimony) or "Di-Reb" (signifying direct testimony on rebuttal) and the name of the party sponsoring the testimony printed in the lower right margin. For example, the marginal notation on page 5 of the testimony of the witness Lynn Accountant of ABC Company would be:

5
Accountant, Di
ABC Company

or

Accountant, Di 5
ABC Company

(7-1-93)

03. References to Exhibits. All references to exhibits in prepared testimony must refer to the exhibits by their number as assigned by the Commission Secretary. Exhibits accompanying prepared testimony must be consecutively numbered from the first exhibit number assigned to the party by the Commission Secretary if the party has not previously identified exhibits, or from the highest exhibit number previously identified by that party. Exhibits must be filed on eight and one-half by eleven inch (8-1/2" x 11") paper unless it is impractical to make them that size. Exhibits accompanying prepared testimony must comply with Rule 267. (7-1-93)

04. Number of Copies -- Filing and Service. Unless otherwise provided by order, notice or agreement of the parties, nine (9) legible copies of prepared testimony and exhibits must be filed with the Commission Secretary and copies filed on all parties pursuant to Rules 61, 62, 63 and 64 at least fourteen (14) days before the hearing at which they will be presented. The original, if there is an original, or one (1) of the copies, if there is not, must be specifically designated as the reporter's copy by cover sheet, attached note or otherwise, and be included with the copies filed

with the Commission Secretary. In special circumstances, notice or order may provide that the reporter's copy of prepared testimony and exhibits be served directly on the reporter rather than the Commission Secretary. (7-1-93)

05. Computer-Searchable Copies of Testimony. In addition to the paper copies of prepared testimony, the Commission Secretary may also require or the parties may agree that some or all of the prepared testimony to be submitted to the Secretary, parties and the reporter in computer searchable CD-ROM without password protection. The CD-ROM shall be in *standard ASCII format*, Adobe Acrobat (PDF); or other searchable format agreed upon by the reporter and the parties. Each CD-ROM shall be labeled with the Commission's case number, case name, the name of each witness and the sponsoring party. ~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

286. TRANSCRIPTS (RULE 286).

01. Form of Transcripts -- Cover Sheet. Transcripts must be prepared on white eight and one-half by eleven inch (8 1/2" x 11") paper. The lines of each page shall be double-spaced with a minimum of twenty-five (25) lines and a maximum of thirty (30) lines per page. Quotations, citations and parenthetical notes may be single-spaced. Each line shall be numbered on the left margin. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

(TITLE OF PROCEEDING))

CASE NO. XXX-X-)
XX-XX)

)
)
(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., 472 West Washington, Boise, Idaho)

~~(7-1-93)~~()

02. Volumes of Transcript -- Indices to Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of

transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (7-1-93)

03. Matters Included in Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs. (7-1-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. Witnesses not sponsored by any party must be designated "Public." The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow:

Accountant, Di;	Accountant, Com; Ratepayer, X
ABC Company	ABC Company Public

Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported. (7-1-93)

05. Volume Size -- Number of Pages. Transcript volumes should not exceed three hundred (300) pages unless the transcript can be completed in three hundred fifty (350) pages or less. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (3-16-04)

06. Number of Copies -- Binding. The reporter shall prepare an original and one (1) copy of the transcript for the Commission. The original of each transcript shall be filed with the Commission Secretary unbound but each volume shall be separated (if applicable). Copies of the

transcript shall be fastened at the left margin in spiral or plastic-type binding, so as to open as flat as possible. (3-16-04)

07. Compressed Transcript. Any party may request a compressed transcript having no more than four (4) pages of regular transcript on a page. Each volume of compressed transcript shall contain no more than two hundred (200) pages unless the transcript can be completed in two hundred fifty (250) pages or less. A compressed transcript may be duplexed. The pagination shall be horizontal as follows:

<u>1</u>	<u>2</u>
<u>3</u>	<u>4</u>

()

08. Computer-Searchable Transcript. Any party may request a computer-searchable disk of the written transcript. The disk shall be in Adobe Acrobat (PDF) or other searchable format agreed upon by the reporter and the party ordering the disk. ()

079. Purchase of Transcript. Any party or other person may request and pay for a copy of a transcript or portions of the transcript from the reporter. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

301. FAILURE TO ANSWER OR APPEAR AT HEARING -- DEFAULTS (RULE 301). After an applicant's, petitioner's, complainant's or moving party's failure to appear at the time and place set for hearing, the Commission may dismiss the petition, application, complaint or motion. When a respondent that has been properly served fails to answer or appear at hearing, the Commission may order any relief against the respondent authorized by law. (7-1-93)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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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 Commission received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 443 through 444.](#)

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 12th day of November 2010.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-515 and 61-517, 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 October 20, 2010.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rule 201 currently adopts by incorporation the federal pipeline safety regulations issued by the Pipeline and Hazardous Material Safety Administration (PHMSA) in the 2009 edition of the Code of Federal Regulations (CFRs). Rule 201 applies to natural gas and pipeline utilities in Idaho. The Commission proposes to adopt the 2010 edition of the CFRs.

There are two major revisions included in the 2010 edition to the federal pipeline safety regulations. First, in December 2009, PHMSA amended 49 C.F.R. Parts 192 and 195 to address human factors and other aspects of control room management for pipelines where controllers use "supervisory control and data acquisition" (SCADA) systems. Among other things, pipeline operators were required to implement methods to prevent controller fatigue and procedures to manage SCADA alarms. These changes to the CFRs required pipeline operators to develop control room management procedures by August 1, 2011, and to implement the procedures by February 1, 2013. In February 2010, PHMSA corrected errors contained in the December 2009 changes.

Second, in December 2009, PHMSA amended its pipeline safety regulations in 49 C.F.R. Part 192 to require operators of gas distribution pipelines to develop and implement integrity management (IM) programs similar to those required for gas transmission pipelines but tailored to reflect the differences in and among distribution pipelines. The federal regulations allow for risk-based adjustments of prescribed intervals for leak detection surveys and other fixed-interval requirements for gas distribution pipelines. To minimize regulatory burdens, the federal rules established simpler requirements for master meter and small liquefied petroleum gas (LPG) operators. The changes also requires pipeline operators to install excess flow valves on new and replaced residential service lines, subject to feasibility criteria outlined in the rule. These changes became effective February 12, 2010. In February 2010, PHMSA made minor corrections to terminology.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated federal safety regulations necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines.

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:

Adoption of the 2010 edition of 49 C.F.R. Parts 192 and 195 will make Rule 201 consistent with the federal safety regulations concerning gas and pipeline utilities and avoid confusion. Updating Rule 201 is also necessary to maintain full funding of the Commission's safety inspection program funded by PHMSA.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 27, 2010. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 26th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-1001

201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).

The Commission incorporates by reference Part 260.9, Title 18 (April 1, 20~~09~~10) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 20~~09~~10), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available on the web from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954 Bookstore at <http://bookstore.gpo.gov> and click on "Code of Federal Regulations," or by calling toll-free 866-512-1800. The incorporated CFR Parts are also available in electronic format at www.gpoaccess.gov/cfr/index.html. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (3-29-10)()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES
DOCKET NO. 31-7103-1001
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-515 and 61-517, 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 Commission received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 445 through 447.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 12th day of November 2010.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-515 and 61-517, 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 October 20, 2010.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety and Accident Reporting Rule 103 adopts by reference the federal safety regulations pertaining to the transportation of hazardous materials by railroads issued by the federal Pipeline and Hazardous Material Safety Administration (PHMSA). Railroad Safety Rules 103 and 104 (Reporting Rail Accidents) adopt the 2008 and 2007 editions of the Code of Federal Regulations (CFRs), respectively. The Commission proposes to adopt the 2010 edition of the CFRs.

There are four major revisions included in the 2010 edition of the federal hazardous material safety regulations. First, in October 2009, PHMSA amended 49 C.F.R. Parts 172 and 174 to clarify requirements governing emergency response information provided by shippers of hazardous materials. In particular, PHMSA requires that shippers' names and contact numbers be included on shipping papers so that emergency responders are able to obtain additional information about the hazardous materials being shipped by rail. Second, in March 2010, PHMSA modified the current security plan requirements applicable to the commercial transportation of hazardous materials by rail. The agency amended 49 C.F.R. Part 172 to decrease the number of hazardous materials subject to security plan requirements. This reduces regulatory costs and paperwork burden. Third, PHMSA amended 49 C.F.R. Section 107.62 to adjust the annual federal fee for entities shipping hazardous materials by rail. This change became effective on April 29, 2010. Finally, PHMSA amended 49 C.F.R. Parts 107, 171, 173, 174, and 179 concerning the procedures for issuing special permits for hazardous material shipments that have established safety records. These revisions were intended to provide wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous requests. This change is effective October 1, 2010.

The Commission is also proposing that Rule 8 be modified to conform to changes that the Legislature enacted requiring agencies to disclose where electronic copies of incorporated materials can be obtained. Adoption of the 2010 edition of 49 C.F.R. Parts 107,

171-174, 178, 179, 180 and 225 will make Rules 103 and 104 consistent with the federal safety regulations concerning the transportation of hazardous materials by rail.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR Parts necessary for the safe transportation of hazardous materials by rail.

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:

There are four major revisions included in the 2010 edition of the federal hazardous material safety regulations. These revisions are listed in detail in the descriptive summary of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 27, 2010. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 26th day of August 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7301-1001

008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 008).

The Code of Federal Regulations (CFR) is referred to in Rules 103 and 104. The annual volumes of the CFR may be obtained on the web from the *Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954* U.S. Government Bookstore at <http://bookstore.gpo.gov/> and click on "Code of Federal Regulations." or by calling toll-free 866-512-1800. The full text of the CFR is also available in electronic format at www.gpoaccess.gov/cfr/index.html. The incorporated CFR Parts are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recom compilations are also

adopted by reference, but subsequent amendments to the CFR are not adopted by reference.

(4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. Hazardous Material Defined. “Hazardous material” means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2008~~10~~). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180.

(5-8-09)()

03. Recognition of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

104. REPORTING OF RAILROAD ACCIDENTS (RULE 104).

The Commission incorporates by reference 49 C.F.R. Part 225 (October 1, 2007~~10~~). Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for accidents or incidents occurring in Idaho. Copies of accident or incident reports shall be mailed to: Commission Secretary, Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074 ((208) 334-0338). Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.idaho.gov. (4-2-08)()

IDAPA 34 - SECRETARY OF STATE

34.01.01 - FEES FOR AUTOMATED DATA RETRIEVAL

DOCKET NO. 34-0101-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 453.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 28th day of October, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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 October 20, 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:

The Secretary of State's Office wishes to repeal this chapter of administrative rules as the services to which this chapter applies and the subsequent fees have become obsolete. Ad hoc reports and fees are also referenced in IDAPA 34.05.01, making these rules redundant.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: No fiscal impact is expected as a result of this repeal, as these rules have become obsolete.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the chapter is being repealed because the rules are obsolete.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August 2010.

IDAPA 34.01.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 34 - SECRETARY OF STATE
34.01.02 - RULES GOVERNING FACSIMILE SERVICES AND FEES
DOCKET NO. 34-0102-1001 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 454.](#)

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: Minimal fiscal impact is expected, as these fees are only charged sporadically.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 28th day of October, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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 October 20, 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:

The Secretary of State's Office wishes to repeal this chapter of administrative rules as the services to which this chapter applies and the subsequent fees have become obsolete.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Minimal fiscal impact is expected, as these fees are only charged sporadically.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the chapter is being repealed because the rules are obsolete.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August 2010.

IDAPA 34.01.02 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 34 - SECRETARY OF STATE

34.01.03 - RULES GOVERNING THE PUBLIC ACCESS INFORMATION SYSTEM (PAIS)

DOCKET NO. 34-0103-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 455.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 28th day of October, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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 October 20, 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:

The Secretary of State's Office wishes to repeal this chapter of administrative rules as the services to which this chapter applies and the subsequent fees have become obsolete.

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

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

No fiscal impact is expected as the PAIS system has not been used in many years.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the chapter is being repealed because the rules are obsolete.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August, 2010.

IDAPA 34.01.03 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 34 - SECRETARY OF STATE

34.01.04 - RULES GOVERNING THE ELECTRONIC BULLETIN BOARD SERVICE

DOCKET NO. 34-0104-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 456.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 28th day of October, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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 October 20, 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:

The Secretary of State's Office wishes to repeal this chapter of administrative rules as the services to which this chapter applies and the subsequent fees have become obsolete.

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

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

No fiscal impact is expected as the Electronic Bulletin Board Service has not been used in many years.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the chapter is being repealed because the rules are obsolete.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August, 2010.

IDAPA 34.01.04 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 34 - SECRETARY OF STATE

34.05.01 - RULES GOVERNING FARM PRODUCTS CENTRAL FILING SYSTEM

DOCKET NO. 34-0501-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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, pages 394 through 409.](#)

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 fees that have been removed from Paragraph 303.03.b. are for services that, due to technological improvements over the last 20 years, are no longer requested or provided. There will be no expected fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 23rd day of September, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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:

In the interest of personal privacy, the Office of the Secretary of State will no longer request social security numbers and tax identification numbers on effective financing statements. To this end, the Office of the Secretary of State has requested amendment to its central filing status with the USDA to allow for the use of a unique identifier numbering system. The proposed changes include the new rules regarding the unique identifier system, update old information, and make corrections to previous errors.

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

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

The fees that have been removed from Paragraph 303.03.b. are for services that, due to technological improvements over the last 20 years, are no longer requested or provided. There will be no expected fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the noncontroversial nature of providing for a unique identifier numbering system.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

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 28th day of July 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0501-1001

000. LEGAL AUTHORITY ~~AND REFERENCES.~~

In accordance with Sections 67-903(9), 28-9-523(g), and 28-9-524, Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office of the Secretary of State. This authority includes rules to implement and maintain the USDA certified Idaho Central Filing System, in accordance with P.L. 99-198, Section 1324 of the Federal Food Security Act (1985) and Title 9, CFR Part 205 (2010). (____)

~~01. Public Law. P.L. 99-198, Section 1324. (7-1-93)~~

~~02. CFR. Title 9, C.F.R., Part 205 (1986). (7-1-93)~~

~~03. Sessions Laws. Session Laws 1986, Chapter 338. (7-1-93)~~

~~04. Idaho Code. Title 67, chapter 52, Idaho Code. (7-1-93)~~

~~05. USDA. USDA certification of the Idaho Central Filing System, and all amendments thereto. The certification and amendments are available for inspection and copying in the office of the Secretary of State. Copies will be provided on request. (7-1-93)~~

~~06. Rules of the Secretary of State. IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees," Office of the Secretary of State. (7-1-93)~~

~~001. -- 003. (RESERVED).~~

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," IDAPA 34, Title 05, Chapter 01. (____)

02. Scope. These rules shall govern the requirements for the filing of Farm Products Financing Statements, for the filing of amendments to Farm Products Financing Statements, and

for the compilation and distribution of a master list of Farm Products Financing Statements, and portions of the master list. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, or to the documentation of compliance with the rules of this chapter, are available for public inspection and copying at the Office of the Secretary of State. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal. ()

Codified Section 004 has been moved and renumbered to proposed Section 010

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business for the Office of the Secretary of State is located at 700 W. Jefferson, Room E205, Boise, Idaho 83720-0080. The Commercial Division is located at 450 N. 4th Street, Boise, Idaho 83720-0080. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except for legal holidays. The mailing address for the office is P. O. Box 83720, Boise, Idaho 83720-0080. The telephone number for the office is (208) 334-2300. The telephone number for lien inquiries is (208) 334-3191. The facsimile number for the office is (208) 334-2847. The office's website address is <http://www.sos.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. -- 009. (RESERVED).

Codified Section 004 has been moved and renumbered to proposed Section 010

00410. DEFINITIONS ~~AND ABBREVIATIONS~~.

The definitions set forth in Section 28-9-102, Idaho Code, apply with full force and effect to all provisions and sections of these rules. Where terms used in this rule are not explicitly or completely defined herein, definitions and usage of terms from the ~~references~~ Legal Authority in Section 000 of these rules are applicable. (7-1-93)()

051. Crop Year. (7-1-93)

a. For a plant or plant product, the calendar year in which it is harvested or to be harvested. (7-1-93)

b. For mammals, the calendar year in which they are born or acquired. (7-1-93)

- c. For bees and worms, the calendar year in which they are alive in adult form. (7-1-93)
- d. For poultry and the products of mammals, poultry, and bees (i.e., milk, eggs, and honey), the calendar year in which they are sold or to be sold. (7-1-93)()
- e. For fish and other aquaculture, the calendar year in which they are harvested or to be harvested. (7-1-93)
- 012.** ~~EFS~~ **Farm Products Financing Statement.** An ~~effective~~ financing statement relating to **covering** farm products. (7-1-93)()
- ~~02.~~ ~~FP.~~ A farm product produced in the state of Idaho. (7-1-93)
- ~~03.~~ ~~SSN.~~ Social security account number of an individual debtor listed on EFS. (7-1-93)
- ~~04.~~ ~~TIN.~~ The IRS taxpayer identification number assigned to a business entity debtor other than an individual. (7-1-93)
- H03.** **Item on a ML Master List or PML Portion of a Master List.** An entry on a **ML master list** or **PML portion of a master list** relating to one (1) **EFS Farm Products Financing Statement** and one (1) debtor listed thereon; ~~there will be a separate item for each debtor name on an EFS; items on a PML will be numbered sequentially.~~ (7-1-93)()
- 004.** **PML Grouping.** That related group of **FP's farm products** which will appear on one (1) PML. (7-1-93)()
- ~~06.~~ ~~SP.~~ A secured party indicated on an EFS. (7-1-93)
- ~~07.~~ ~~ML.~~ Master list of EFS's compiled by the Secretary of State. (7-1-93)
- ~~08.~~ ~~PML.~~ A portion of the master list which covers EFS's relating to a particular FP or group of FP's. (7-1-93)
- ~~10.~~ ~~CS.~~ A cumulative supplement to a PML which contains all additions to, changes to, and deletions from the PML which have been filed since the most recent publication of the complete PML. (7-1-93)
- ~~12.~~ ~~CM.~~ Commission merchant. (7-1-93)
- ~~13.~~ ~~SA.~~ Selling agent. (7-1-93)
- ~~14.~~ ~~SOS.~~ Secretary of State. (7-1-93)
- ~~15.~~ ~~Debtor.~~ For purposes of this rule, the term "debtor" shall mean any person subjecting a farm product to a security interest, whether or not such person is an actual debtor.

~~(7-1-93)~~

~~16. USDA. The United States Department of Agriculture.~~

~~(7-1-93)~~

~~005. — 010. (RESERVED).~~

Codified Sections 011 through 021 have been moved and renumbered to proposed Sections 100 through 303, respectively.

011. ABBREVIATIONS.

Where abbreviations used in these rules are not explicitly or completely defined herein, definitions and usage of abbreviations from the Legal Authority in Section 000 of these rules are applicable. ()

01. CS. A cumulative supplement to a PML which contains all additions to, changes to, and deletions from the PML which have been filed since the most recent publication of the complete PML. ()

02. PML. A portion of the master list, which covers Farm Products Financing Statements relating to a particular farm product or group of farm products. ()

03. SOS. Idaho Secretary of State. ()

04. USDA. United States Department of Agriculture. ()

~~012. -- 019. (RESERVED).~~

020. UNIQUE IDENTIFIER NUMBER (UIN).

01. UIN System. The Secretary of State's Office shall use a UIN system that has been approved and certified by the USDA for the Idaho Central Filing System in place of the former use of complete social security numbers as a means of debtor identification. ()

02. Social Security Numbers and Tax Identification Numbers. With the use of UINs, as approved by the USDA, the SOS will no longer require or accept social security numbers or tax identification numbers, in total, on Farm Products Financing Statements. Only the last four (4) digits shall be required and used. The SOS will not provide social security numbers or tax identification numbers, in total, to any person or business entity, in any format, from Farm Products Financing Statements. ()

~~021. -- 099. (RESERVED).~~

Codified Sections 011 through 021 have been moved and renumbered to proposed Sections 100 through 303, respectively.

~~011100.EFS~~ **FARM PRODUCTS FINANCING STATEMENT** REQUIREMENTS.

01. Form. ~~An EFS Farm Products Financing Statement must meet the requirements of Section 28-9-502, Idaho Code, and must be filed on a form prescribed and approved by the SOS. The form shall be designated "UCC-1F."~~ (7-1-93)()

02. Debtor Name. ~~The debtor name or names must be entered completely and precisely.~~ **Completion of Form.** ~~Form UCC-1F must be completed in accordance with instructions provided by the SOS.~~ (7-1-93)()

~~a. The names of individuals must be entered in order of last name (surname), first name, and middle initial or name, if any.~~ (7-1-93)

~~b. Assumed business names and corporate names must be entered in full, without abbreviation.~~ (7-1-93)

03. SSN/TIN. ~~The SSN or TIN for each debtor must be entered beside each debtor's name. If the debtor is a sole proprietorship which has adopted an assumed business name which is listed on the EFS, the SSN of the debtor should be entered beside the assumed business name; if both a husband and wife are liable on the debt, then both SSN's should be entered beside the assumed business name.~~ (7-1-93)

04. Debtor Address. ~~The address of the debtor(s) must be entered. If there are multiple debtors and addresses, the respective debtors and addresses must be clearly tied together.~~ (7-1-93)

05. SP. ~~The name and address of the SP must be entered.~~ (7-1-93)

06. Assignee. ~~The name and address of the assignee, if any, must be entered.~~ (7-1-93)

07. FP. ~~The three (3) digit product code for each FP subject to the security interest must be entered. A table of product codes appears on the back of the UCC-1F. Entry of the FP name following the FP code is permissible but not required. The SOS will consider and record only the FP code, and will not be responsible for discrepancies between the FP code and any FP name which may be entered by the filing party.~~ (7-1-93)

08. County. ~~Within each FP so indicated, the two digit county code for each county where the FP is growing, is to be grown, is located or is foreseen to be located while in possession of the debtor. A table of county codes appears on the back of the UCC-1F. If a county which is not in the table must be entered, code "99" should be entered, and the county name entered on an attached page.~~ (7-1-93)

09. Crop Year. ~~If fewer than all crop years of a FP are covered by the EFS, the crop year(s) of the FP which is (are) covered must be entered. Only the last two (2) digits of the year are used.~~ (7-1-93)

10. Amount. ~~If less than all of a particular FP for the specified crop year(s) is covered by the EFS, the amount which is covered must be entered, along with the code for the appropriate~~

~~unit of measurement. A table of unit codes appears on the back of the UCC-1F. If all of the particular FP for the specified crop year(s) is covered by the EFS, no amount information should be entered. (7-1-93)~~

~~11. **Narrative.** If less than all of a FP for the specified crop year(s) is covered, and if the coded information does not adequately identify that which is covered, such additional information as is necessary to identify the covered amount must be entered in narrative form on an attached supplement form prescribed and approved by the SOS. The supplement form shall be designated "UCC-2F." Each entry of additional collateral description on the UCC-2F must be tied to the item on the UCC-1F to which it relates by reference to the pre-numbered line of collateral information on the UCC-1F. The additional collateral description for each item must be limited to not more than a total of one hundred fifty (150) characters and spaces. (7-1-93)~~

~~12. **Signatures.** The signatures of the debtor(s) and SP must be affixed to the UCC-1F. All debtors whose names appear in the debtor block of the UCC-1F must sign. (7-1-93)~~

~~13. **Legibility.** All information other than the signatures must be typed or legibly printed. (7-1-93)~~

~~14. **Attachments.** All attached pages must be printed on only one (1) side and must not exceed eight and one half by eleven inches (8 1/2" x 11") in size. (7-1-93)~~

~~012101.AMENDMENT, ASSIGNMENT, CONTINUATION, AND TERMINATION OF
EFS **A FARM PRODUCTS FINANCING STATEMENT.**~~

~~01. **Form.** An amendment, assignment, or continuation of an EFS Farm Products Financing Statement must be filed on a form prescribed and approved by the SOS. ~~The form shall be designated "UCC-3F."~~ A termination of an EFS may be filed on either the original UCC-1F termination block or on a UCC-3F. (7-1-93)()~~

~~02. **EFS Number.** The document number assigned by the SOS to the EFS to which the action pertains must be entered. Completion of Form. Form UCC-3F must be completed in accordance with instructions provided by the SOS. (7-1-93)()~~

~~03. **Parties.** The requirements for identification and signatures of the parties are the same as for an EFS. (7-1-93)~~

~~04. **Coded Information.** Amendment of coded collateral information on the EFS will be done by entry of action codes "A" for addition of a new line of coded information and "D" for deletion of an existing line of coded information. Following the action code, the coded information for FP, county, crop year and amount will be entered in the same manner as on an EFS. Amendment of a particular line of coded information will be done by deleting the existing line, followed by adding a new line to reflect the information as amended. Such an amendment must refer by number to the pre-numbered line of collateral information on the UCC-1F. When necessary, the UCC-2F will be used in the same manner as described in Subsection 011.11, supra. A release of collateral will be deemed to be an amendment. (7-1-93)~~

~~05. **Uncoded Information.** Amendment of uncoded information on the EFS will be~~

~~entered in the appropriate space on the UCC-3F. (7-1-93)~~

~~06. **Assignment.** Assignment of a security interest covered by an EFS will be done by entry of the assignee's name and address in the assignee space on the UCC-3F. (7-1-93)~~

~~07. **Continuation.** Continuation of an EFS will be done by checking the continuation box on the UCC-3F. (7-1-93)~~

083. Termination. Termination of an ~~EFS~~ **Farm Products Financing Statement** will be done either by the ~~SP's~~ **secured party's** signature on the termination signature line on the original of the UCC-1F or by checking the termination box on the UCC-3F. (7-1-93)()

~~09. **Obligation to Terminate.** The secured party is required to file a termination of an EFS with the SOS within one (1) month from the date on which the secured party no longer has a claim to a security interest under the EFS. If the secured party fails to file the termination statement within one (1) month from the date on which there is no longer an outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, he shall be liable to the debtor for one hundred dollars (\$100) in addition to any loss suffered by the debtor by the failure to file the termination statement. (7-1-93)~~

102. FARM PRODUCTS FINANCING STATEMENTS UNDER THE UNIFORM COMMERCIAL CODE.

Unless otherwise provided for in this chapter, Farm Products Financing Statements shall be governed by IDAPA 34.05.06, "Administrative Rules Governing Lien Filings Under the UCC," with the following exceptions: ()

01. IDAPA 34.05.06.101.05 "File Number." Subsection 101.05 only applies in that a unique number shall be assigned. For Farm Products Financing Statements, the filing type shall be designated as "F" followed by a number that is assigned sequentially. The filing number bears no relation to the time of filing and is not an indicator of priority. ()

02. IDAPA 34.05.06.108 "Acceptable Forms." Section 108 does not apply to Farm Products Financing Statements. ()

03. IDAPA 34.05.06.111 "Filing Fees." Section 111 does not apply to Farm Products Financing Statements. ()

04. IDAPA 34.05.06.115.01 "Individually Identified Documents." Subsection 115.01 does not apply to Farm Products Financing Statements. Copies of Farm Products Financing Statements shall be made available either from a computer terminal in the reception area in the filing office or through any medium otherwise accepted by the filing office. There is a charge of one dollar (\$1) per page for copies of Farm Products Financing Statements pursuant to Section 28-9-523(k), Idaho Code. ()

05. IDAPA 34.05.06.202.02 "Additional Debtor Identification." Subsection 202.02 does not apply to Farm Products Financing Statements. ()

06. IDAPA 34.05.06.301.01 "Identification Numbers." Subsection 301.01 applies.

however, each Farm Products Financing Statement is identified by its file number as described in Subsection 102.01 of these rules. ()

07. IDAPA 34.05.06.301.05 “Status of Financing Statement.” Subsection 301.05 does not apply to Farm Products Financing Statements. ()

08. IDAPA 34.05.06.302.01 “Individual Name Fields.” Subsection 302.01 applies, however, no indicator is used to distinguish the name as that of an individual. ()

09. IDAPA 34.05.06.302.05 “No Assumed Business Names.” Subsection 302.05 does not apply to Farm Products Financing Statements. However, if an assumed business name is used as the debtor name, the required information shall be as indicated in Subsection 020.02 of these rules. ()

10. IDAPA 34.05.06.303.01 “Single Field.” Subsection 303.01 applies, however, no indicator is used to distinguish the name as that of an organization. ()

11. IDAPA 34.05.06.303.03 “No Assumed Business Name.” Subsection 303.03 does not apply to Farm Products Financing Statements. However, if an assumed business name is used as the debtor name, the required information shall be as indicated in Subsection 020.02 of these rules. ()

12. IDAPA 34.05.06.306.02 “Status of Debtor.” Subsection 306.02 does not apply to Farm Products Financing Statements. ()

13. IDAPA 34.05.06.306.03 “Status of Financing Statement.” Subsection 306.03 does not apply to Farm Products Financing Statements. ()

14. IDAPA 34.05.06.310 “Termination.” Section 310 does not apply to Farm Products Financing Statements. ()

15. IDAPA 34.05.06.312 “Procedure Upon Lapse.” Section 312 only applies to Farm Products Financing Statements in that a Farm Products Financing Statement lapses on its lapse date. Upon lapse of a Farm Products Financing Statement, the information management system shall cause the Farm Products Financing Statement to no longer be made available to the searcher. ()

16. IDAPA 34.05.06.407 “Data Entry of Names - Designated Fields.” Section 407 applies to Farm Products Financing Statements, however, the filer is not required to designate whether a name is an individual or an organization. ()

17. IDAPA 34.05.06.408 “Data Entry of Names - No Designated Fields.” Section 408 does not apply to Farm Products Financing Statements. ()

18. IDAPA 34.05.06.410.02 “Name and Address of Each Debtor.” Subsection 410.02 applies to Farm Products Financing Statements, however, each debtor name is removed from the searchable index upon lapse or termination. ()

19. IDAPA 34.05.06.411.03 “Amendment Financing Statement Lapses.” Subsection 411.03 applies to Farm Products Financing Statements, however, each debtor name is removed from the searchable index upon lapse or termination. ()

20. IDAPA 34.05.06.413 through IDAPA 34.05.06.504. Sections 413 through 504 do not apply to Farm Products Financing Statements. ()

~~013~~**103. -- 199.**(RESERVED).

~~014~~200. COLLATERAL INFORMATION CODES.

~~01. Use of Codes.~~ The ~~e~~Codes in Section 014 are used to describe ~~FP~~ farm product collateral on the ~~EFS~~ Farm Products Financing Statements and ~~ancillary statements~~ amendments, on the ~~ML~~ master list maintained by the SOS, and on the PML’s distributed to registered buyers, ~~CM’s~~ commission merchants, and ~~SA’s~~ selling agents. (7-1-93)

~~02. FP Codes.~~ ~~FP’s covered by this rule shall be those certified by USDA. The FP’s in the following table have been certified. FP’s may be added by certification by USDA.~~ Assignment of ~~FP~~ farm product codes and PML ~~g~~Groupings, county codes, and farm product unit codes shall be done by the ~~Secretary of State as a matter of internal management~~ SOS. ~~The SOS will provide a list of the established codes upon request.~~ The table of PML ~~g~~Groupings, ~~FP’s~~ farm products, and their codes is as follows:

PML No.	PML Grouping	FP Code	FP Name
01	Wheat and Buckwheat	010	Wheat
		011	Buckwheat
02	Feed and Oil Grains	020	Barley
		021	Rye (including Triticale)
		022	Oats
		023	Sorghum Grain
		024	Flaxseed
		025	Safflower
		026	Rape (including Canola)
		027	Field Corn
		028	Millet
03	Hay	030	Hay
04	Ensilage	040	Ensilage

PML No.	PML Grouping	FP Code	FP Name
05	Potatoes	050	Potatoes
06	Sugar Beets	060	Sugar Beets
07	Dry Beans	070	Dry Beans
08	Dry Peas, Lentils and Garbanzos	080	Dry Peas
		081	Lentils
		082	Garbanzos (Chick Peas)
09	Sweet Corn	090	Sweet Corn
10	Onions and Garlic	100	Onions
		101	Onion Seed
		102	Garlic
11	Mint	110	Mint
12	Hops	120	Hops
13	Popcorn & Sunflower Seeds	130	Popcorn
		131	Sunflower Seeds
14	Soybeans	140	Soybeans
15	Rice	150	Rice
16	Seeds	160	Grass for Seed
		161	Alfalfa for Seed
		162	Other Hay Legumes for Seed
		163	Garden Vegetables and Flower Seeds
		<u>164</u>	<u>Seed Potatoes</u>
		<u>165</u>	<u>Row Crops for Seed</u>

PML No.	PML Grouping	FP Code	FP Name
17	Vegetables & Melons	170	Green Peas
		171	Tomatoes
		172	Lettuce
		173	Cucumbers
		174	Broccoli
		175	Cauliflower
		176	Lima Beans
		177	Green Beans
		178	Melons
		179	Carrots
		180	Turnips
		181	Asparagus
		182	Spinach and Collards
		183	Pumpkins and Squash
		184	Radishes
		185	Peppers
		<u>186</u>	<u>Herbs</u>
19	Fruits	190	Apples
		191	Apricots
		192	Cherries
		193	Nectarines
		194	Peaches
		195	Pears
		196	Plums
20	Berries	200	Strawberries
		201	Raspberries
21	Nursery Products	210	Sod
		211	Nursery Stock (Trees and Shrubs)
		212	Christmas Trees
		213	Flowers and Potted Plants

PML No.	PML Grouping	FP Code	FP Name
22	Mushrooms	220	Mushrooms
23	Grapes	230	Grapes
50	Beef Animals	500	Beef Cattle and Calves
		501	Beefalo
		502	Bison
51	Sheep, Wool	510	Sheep and Lambs Goats and Llamas
		511	Wool
		512	Goats
		513	Llamas
52	Hogs	520	Hogs
53	Dairy	530	Dairy Cattle
		531	Milk
54	Equines	540	Horses
		541	Mules
		542	Donkeys and Burros
55	Chickens and Eggs	550	Chickens
		551	Eggs
56	Other Fowl	560	Turkeys
		561	Ducks
		562	Geese
		563	Game Birds
		<u>564</u>	<u>Ostriches, Emus, and Rheas</u>
57	Mink, Rabbits and Fox	570	Mink and Pelts
		571	Rabbits
		572	Fox and Pelts

PML No.	PML Grouping	FP Code	FP Name
58	Apiary Products	580	Bees
		581	Honey
		582	Bees Wax
59	Fish and Other Aquaculture	590	Fish and Other Aquaculture
60	Big Game Animals (Deer and Elk)	590 600	Big Game Animals (Deer and Elk)
61	Worms	610	Worms
62	Semen	620	Cattle Semen
		621	Horse Semen

(7-1-93)()

03. ~~County Codes.~~ *The table of county codes is as follows. Unless otherwise indicated, counties are in Idaho.*

01	Ada	16	Cassia	31	Lewis	46	Garfield, Wa.
02	Adams	17	Clark	32	Lincoln	47	Pend-Orielle, Wa.
03	Bannock	18	Clearwater	33	Madison	48	Spokane, Wa.
04	Bear Lake	19	Custer	34	Minidoka	49	Whitman, Wa.
05	Benewah	20	Elmore	35	Nez-Perce	50	Malheur, Or.
06	Bingham	21	Franklin	36	Oneida	51	Elko, Nv.
07	Blaine	22	Fremont	37	Owyhee	52	Box Elder, Ut.
08	Boise	23	Gem	38	Payette	53	Cache, Ut.
09	Bonner	24	Gooding	39	Power	54	Rich, Ut.
10	Bonneville	25	Idaho	40	Shoshone	55	Lincoln, Wy.
11	Boundary	26	Jefferson	41	Teton	56	Teton, Wy.
12	Butte	27	Jerome	42	Twin Falls	57	Beaverhead, Mt.
13	Camas	28	Kootenai	43	Valley	58	Lincoln, Mt.
14	Canyon	29	Latah	44	Washington	59	Sanders, Mt.
15	Caribou	30	Lemhi	45	Asotin, Wa.	99	Not in Table

(7-1-93)

04. ~~Crop Year.~~ *The crop year code is the last two digits of the calendar year. If no crop*

~~year code is entered, all crop years are deemed to be covered. (7-1-93)~~

~~05. Unit Codes. The table for codes for units used to indicate the amount of a FP covered is as follows:~~

A - acres	G - gallons	T - tons
B - bushels	H - head	V - hives
C - hundred weight	L - pounds	W - lugs
E - cases	N - bins	X - boxes
F - flats	S - sacks	Z - stubs

~~(7-1-93)~~

015201. REGISTRATION OF BUYERS, CM'S COMMISSION MERCHANTS, AND SA'S SELLING AGENTS -- SUBSCRIPTION TO A PML'S.

01. Form. Registration of buyers, CM's commission merchants, and SA's selling agents must be on ~~a form prescribed and approved by the~~ SOS. ~~The form shall be designated "UCC-5F."~~ (7-1-93)()

02. Right to Subscribe - Number. Registration entitles the registrant to subscribe for PMLs. Each registrant will be assigned a permanent registration number by the SOS. (7-1-93)

03. Duration. Registration is effective for a period of one (1) year. Renewal of registration may be filed at any time after ninety (90) days prior to expiration of a current registration period. The registrant must indicate his registration number on the renewal registration form. (7-1-93)

04. Change of Name or Address. Notice of a registrant's change of name or address must be made in writing to the SOS. (7-1-93)

05. Initial Subscription. Subscriptions for PMLs may be made at the time of registration or at any time during the period for which the registrant is registered; provided that no subscription for a PML will run beyond the calendar quarter in which the registration period expires. Subscriptions made at the time of registration ~~will~~ must be made on the UCC-5F. (7-1-93)()

06. Other Subscription. Subscriptions made other than at the time of registration must be made on ~~a form prescribed and approved by the~~ SOS. ~~The form shall be designated "UCC-6F."~~The registrant must indicate his registration number on the subscription form. (7-1-93)()

07. Period of Subscription. A subscription for any PML may be annual or by calendar quarter or quarters, which quarter or quarters may be at a specified time in the future. (7-1-93)

08. Initial Distribution. If a subscription starts at any time other than the start of a

calendar quarter, the registrant will receive the most recent complete compilation of the PML, ~~the most recent CS,~~ and all distributions of PMLs ~~and CS's~~ for the remainder of the calendar quarter. (7-1-93)()

09. Special Subscription. If the registrant subscribes for a PML for fewer than all counties or crop years, ~~he~~ **the registrant** must indicate the county codes of the desired counties ~~and~~ or the desired crop years ~~(s), or both~~. If no county codes or crop years are indicated, the PML will cover all counties and crop years. (7-1-93)()

~~10. Medium. For each PML for which there is a choice of media, the registrant must indicate "M" for microfiche or "P" for paper. A choice of media is available for PML's which cover all counties and crop years. (7-1-93)~~

~~110. Copy of Rules.~~ At the time of registration, each registrant will be ~~issued~~ **provided** ~~with~~ a copy of these rules. (7-1-93)()

~~016202. -- 299.~~(RESERVED).

~~017300.~~FORM AND DISTRIBUTION OF **A PML'S AND CS'S.**

01. Content of List. Each PML includes data from all ~~EFS's~~ **Farm Products Financing Statements** which cover a particular ~~FP or one (1) or more of a group of related FP's (PML grouping).~~ (7-1-93)()

~~02. Alphabetical Organization. Within each PML, EFS data are organized alphabetically by surname of individual debtors and the first word other than an article of speech in the names of non-individual debtors or in assumed business names. Items in a PML are numbered sequentially. (7-1-93)~~

~~03. Content of Each Item. For each item, the PML includes current information reflecting any changes by amendment, continuation or assignment concerning: (7-1-93)~~

~~a. The address of the debtor; (7-1-93)~~

~~b. The document number of the EFS; (7-1-93)~~

~~c. The date and time of filing of the EFS; (7-1-93)~~

~~d. The SSN or TIN of the debtor; (7-1-93)~~

~~e. The name and address of the secured party; (7-1-93)~~

~~f. Each FP from the relevant PML grouping which is covered by the EFS; and (7-1-93)~~

~~g. For each FP, all crop year, location information, amount information, and other identifying information indicated on the EFS. (7-1-93)~~

~~04. **Cross-Index.** At the end of the PML, there is a cross-index organized in order of SSN and TIN, keyed to the item number in the PML. (7-1-93)~~

~~05. **Medium.** For PML's covering all counties and crop years, there is a choice of media between microfiche and paper. PML's covering fewer than all counties or crop years are available only on paper. (7-1-93)~~

062. PML Publication Dates. Each PML is published in complete form on the first regularly scheduled bi-weekly publication date in each calendar quarter. A PML may at other times be published in complete form at the discretion of the SOS when that appears to be more economical than to publish a CS. (7-1-93)

073. Supplementation. At bi-weekly intervals following the publication of each PML, the SOS publishes a CS for each PML. The CS includes all additions, deletions and changes which have occurred since the publication of the last complete PML. Additions are in the same form and cross-indexed in the same way as items on the PML. Deletions and changes need only refer to the affected item in either the PML or the "addition" section of the CS, and state what action has been taken or what change has been made to that item. (7-1-93)

084. Cut-Off Date. In order to be included on a PML or CS, an ~~EFS~~ **Farm Products Financing Statement** must be received by the SOS ~~not later than 8:00 a.m. on the~~ **at least one (1)** business day prior to publication; ~~i.e. an EFS received on Thursday will not be included on a PML published on Friday.~~ (7-1-93)()

~~09. **Staggered Dates.** The SOS may stagger the publication dates of the various PML's and CS's at his discretion. (7-1-93)~~

~~105. **Schedule.** At the beginning of each calendar quarter, the SOS distributes to each registrant ~~with the quarterly PML's~~ a schedule of proposed publication dates for that calendar quarter ~~and for the next quarterly PML's~~. The SOS may, for good cause, deviate from the schedule, but every PML and CS will be clearly marked with the actual date of publication. In no case will there be more than eighteen (18) days between publications of PMLs and associated CSs. (7-1-93)()~~

~~018301~~. GENERATION OF AD HOC INFORMATION REPORTS.

01. Options. Upon the request of any person, the SOS will provide a list organized or limited according to: (7-1-93)

- a. An individual ~~FP~~ **farm product** or a PML ~~g~~**Grouping**; (7-1-93)()
- b. Alphabetical order by debtor name; (7-1-93)
- c. ~~Numerical~~ **By** order ~~by SSN and TIN~~ **of UIN**; (7-1-93)()
- d. County; or (7-1-93)
- e. Crop year. (7-1-93)

02. Internal Organization. When the request is for organization or limitation on the criteria specified in Subsections Paragraphs 018301.01.a., 018301.01.d., and 018301.01.e., supra. of these rules, the list will be organized alphabetically within each resulting group unless the request specifies otherwise. (7-1-93)()

03. Additional Criteria. The request may specify additional criteria for further organization or limitation within the first grouping. (7-1-93)

019302.REQUESTS FOR INFORMATION.

Requests for information on EFS's Farm Products Financing Statements will comply with IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees;" ~~Office of the Secretary of State.~~ (7-1-93)()

~~020. VERBAL REQUESTS FOR INFORMATION.~~

~~Verbal requests for information on EFS's will comply with IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees," Office of the Secretary of State. (7-1-93)~~

021303.FEES.

01. EFS Farm Products Financing Statement. EFS Farm Products Financing Statement and changes thereto (UCC-1F, UCC-2F and UCC-3F). (7-1-93)()

a. The fee for filing either a UCC-1F or a UCC-3F is ~~ten dollars (\$10) if the form is typed or machine printed, and otherwise is fourteen dollars (\$14)~~ provided in IDAPA 34.05.06, "Administrative Rules Governing Lien Filings Under the UCC - Farm Product Liens," Section 606. (7-1-93)()

b. ~~For each page of information attached to a form, there is an additional fee of one dollar (\$1). The UCC-2F is not counted as a page of attached information.~~ (7-1-93)

eb. There is no charge for filing a complete termination of an ~~EFS~~ Farm Products Financing Statement. (7-1-93)()

d. ~~The fee for filing an EFS or change thereto must be paid at the time of filing.~~ (7-1-93)

02. Registration of Buyers, CM's Commission Merchants, and SA's Selling Agents. (7-1-93)()

a. The fee for the annual registration of each buyer, CM commission merchant, or SA selling agent is thirty dollars (\$30). (7-1-93)()

b. The registration fee must be paid at the time of registration. (7-1-93)

c. There is no fee for filing notice of a registrant's change of name or address. (7-1-93)

03. Subscription to PMLs by Buyers, ~~CM's~~ Commission Merchants, and ~~SA's~~ Selling Agents. (7-1-93)()

a. The fee for subscribing for each PML ~~and its CS's by a registrant~~ is determined by the size of the PML. For the purpose of computing the fee, each PML ~~g~~ Grouping is placed into a fee category based on the highest number of items on the PML during the prior calendar year. In December of each year the SOS will publish an index of the PML ~~g~~ Groupings in each fee category to be used for the new year. Those fee categories are as follow:

Category	No. of items on PML
X	More than 7500
A	2501 - 7500
B	1001 - 2500
C	101 - 1000
D	26 - 100
E	0 - 25

(7-1-93)()

b. The fees ~~in dollars~~ for each fee category, ~~by media, configuration, and period~~ are as follows:

Fee Category

Configuration of PML	Period	X	A	B	C	D	E
All Counties, Microfiche <u>Electronic Media</u>	<u>Quarter</u>	<u>\$25</u>	<u>\$23</u>	<u>\$15</u>	<u>\$13</u>	<u>\$13</u>	<u>\$13</u>
	<u>Annual</u>	<u>\$100</u>	<u>\$90</u>	<u>\$60</u>	<u>\$50</u>	<u>\$50</u>	<u>\$50</u>
All Counties, Paper	<u>Quarter</u>	<u>\$330</u>	<u>\$261</u>	<u>\$95</u>	<u>\$45</u>	<u>\$18</u>	<u>\$13</u>
	<u>Annual</u>	<u>\$1,320</u>	<u>\$1,040</u>	<u>\$380</u>	<u>\$180</u>	<u>\$703</u>	<u>\$50</u>
First county when fewer than all, Paper**	<u>Q</u>	<u>158</u>	<u>148</u>	<u>123</u>	<u>113</u>	<u>110</u>	<u>110</u>
	<u>A</u>	<u>630</u>	<u>590</u>	<u>490</u>	<u>450</u>	<u>440</u>	<u>440</u>
Each additional** county	<u>Q</u>	<u>40</u>	<u>33</u>	<u>10</u>	<u>5</u>	<u>4</u>	<u>4</u>
	<u>A</u>	<u>160</u>	<u>130</u>	<u>40</u>	<u>20</u>	<u>2</u>	<u>2</u>
Fewer than all crop years	<u>Q</u>	<u>485</u>	<u>400</u>	<u>208</u>	<u>150</u>	<u>115</u>	<u>110</u>
	<u>A</u>	<u>1940</u>	<u>1600</u>	<u>830</u>	<u>600</u>	<u>460</u>	<u>440</u>

* Q = cost per quarter

A = cost for an annual subscription.

** If a PML is to include fewer than all counties and fewer than all crop years, these schedules apply.

(7-1-93)()

c. The subscription fee must be paid at the time the subscription is made. ~~If, due to a recent recategorization of a PML grouping, the fee submitted is insufficient, the SOS may bill the~~

~~registrant for a balance owing of up to fifty percent (50%) of the subscription fee. (7-1-93)()~~

04. Ad Hoc Lists. (7-1-93)

a. The fee for generating an ad hoc list as provided in Section ~~018, supra~~ **301 of these rules**, is thirty-five dollars (\$35) per hour for programming and analysis and eighty-five dollars (\$85) per hour of computer time required to produce the list. In addition thereto, there is a fee of one dollar (\$1) per printed page of the list so generated. ~~(7-1-93)()~~

b. The fee for the generation of the list must be paid prior to or upon receipt of the list. (7-1-93)

05. Fees for Requests for Information. The fees for requests for information on ~~EFS's Farm Products Financing Statements~~, both written and verbal, and for copies of ~~EFS's Farm Products Financing Statements~~ reported on the certificate, are provided in IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees;" ~~Office of the Secretary of State.~~ ~~(7-1-93)()~~

~~022~~**304.** -- 999.(RESERVED).

IDAPA 34 - SECRETARY OF STATE

34.05.02 - RULES GOVERNING LIENS IN CROPS, FOR SEED, AND FARM LABOR

DOCKET NO. 34-0502-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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, pages 410 through 416.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 23rd day of September, 2010.

Jeff Harvey
UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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:

The proposed changes are necessary to bring a 17-year-old set of administrative rules up-to-date. The proposed changes revise the duration and extension information regarding Claim of Lien for Farm Labor, and Claim of Lien for Seed, to make consistent with statute; remove references to microfiche (no longer used); and make other minor corrections.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the changes to update the rules.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

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 28th day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0502-1001

000. LEGAL AUTHORITY ~~AND REFERENCES.~~

In accordance with Sections 67-903(9), 45-313(3), and 45-316, Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office of the Secretary of State. ()

~~01. Title 45, Chapter 3, Idaho Code. (7-1-93)~~

~~02. Title 67, Chapter 52, Idaho Code. (7-1-93)~~

~~03. IDAPA 34, Title 05, Chapter 01. (7-1-93)~~

~~04. IDAPA 34, Title 05, Chapter 03. (7-1-93)~~

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.05.02, "Rules Governing Liens in Crops for Seed or Liens in Crops for Farm Labor," IDAPA 34, Title 05, Chapter 02. ()

02. Scope. These rules shall govern the requirements for the filing, amendment, or termination of liens in crops for seed or liens in crops for farm labor, as well as the creation and distribution of a master list of liens in crops for seed or liens in crops for farm labor. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, or to the documentation of compliance with the rules of this chapter, are available for public inspection and copying at the Office of the Secretary of State. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal. ()

Codified Section 004 has been moved and renumbered to proposed Section 010

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business for the Office of the Secretary of State is located at 700 W. Jefferson, Room E205, Boise, Idaho 83720-0080. The Commercial Division is located at 450 N.

4th Street, Boise, Idaho 83720-0080. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except for legal holidays. The mailing address for the office is P. O. Box 83720, Boise, Idaho 83720-0080. The telephone number for the office is (208) 334-2300. The telephone number for lien inquiries is (208) 334-3191. The facsimile number for the office is (208) 334-2847. The office's website address is <http://www.sos.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

~~0017.~~ -- ~~0039.~~ (RESERVED).

00410. DEFINITIONS ~~AND ABBREVIATIONS.~~

The definitions set forth in Section 45-302, Idaho Code, apply with full force and effect to all provisions and sections of these rules.

~~01. Incorporation by Reference.~~ Where terms used in this rule are not defined herein, definitions and usage of terms from the ~~references~~ Legal Authority in Section 000 of these rules are applicable. (7-1-93)()

~~02. Claimant.~~ *A provider of seed or a farm laborer who files a notice of claim of lien in the crop or crops which are produced from the seed or with the aid of the labor. A claimant may be an individual, corporation, partnership, or unincorporated association.* (7-1-93)

~~03. Producer.~~ *A farm operator to whom a claimant has provided seed or farm labor used in the production of crops. A producer may be an individual, corporation, partnership, or unincorporated association.* (7-1-93)

0501. Family. A group of related persons living together as one economic unit, comprised of parents and children, including step-children. (7-1-93)

0402. Farm Laborer. Anyone who provides farm labor used in the production of crops. When a business entity contracts for and provides such labor, e.g., aerial spraying or custom harvesting, the entity and not its individual employees shall be deemed to be the farm laborer. When individuals provide such labor directly to a producer, each individual is a farm laborer, whether or not they have been organized as a work crew or are members of a family which works as a unit. (7-1-93)

0703. Notice of Claim of Lien. A written notice on the public record of a claimant's lien in the crops of a producer. ~~It must be filed on a form prescribed by the Secretary of State.~~ (7-1-93)()

0604. SOS. Idaho Secretary of State. (7-1-93)()

~~005011.~~ -- ~~01099.~~(RESERVED).

Codified Sections 011 through 018 have been moved and renumbered to proposed Sections 100 through 301, respectively.

01100. REQUIREMENTS FOR NOTICE OF CLAIM OF LIEN.

01. Form. ~~A notice of claim of lien must be filed on a form prescribed and approved by the SOS.~~ The form for a notice of claim of lien shall be designated "SL-1." (7-1-93)()

a. Form SL-1 must be completed in accordance with instructions provided by the SOS. ()

b. Collateral information codes shall be used to indicate the crop and the county where the crop is grown. The collateral information codes shall be assigned by the SOS. The SOS will provide a list of the established codes upon request. ()

~~**02. Nature of Lien.** The nature of the lien (farm laborer's or seed) must be indicated. (7-1-93)~~

~~**03. Producer.** The producer's name or names must be entered completely and precisely. (7-1-93)~~

~~**a.** The names of individuals must be entered in order of last name (surname), first name, and middle name or initial, if any. (7-1-93)~~

~~**b.** Corporate names and assumed business names must be entered in full, without abbreviation. (7-1-93)~~

~~**04. Address.** The address of the producer(s) must be entered, to include Zip Code, if known. (7-1-93)~~

~~**05. Claimant.** The name and address of the claimant(s) must be entered, to include Zip Code, if known. (7-1-93)~~

~~**06. Crop.** The crop or crops in which the lien is claimed must be identified either by entering the three (3) digit code listed in the form's instructions or by entering the name of the crop in narrative form. The assignment of codes to crops shall be done by the SOS as a matter of internal management. (7-1-93)~~

~~**07. Crop Year.** If the crop year of the crop(s) is other than the calendar year in which the notice is filed, the crop year must be entered. (7-1-93)~~

~~**08. County.** The county or counties in which the crop(s) subject to the lien are growing or to be grown must be identified either by entering the two (2) digit code listed in the form's instructions or by entering the county name in narrative form. The assignment of codes to counties shall be done by the SOS as a matter of internal management. (7-1-93)~~

~~**09. Signature.** The notice of claim of lien shall be signed by or on behalf of the~~

~~claimant(s) in any combination of the following ways, so long as all claimants are accounted for:~~
~~(7-1-93)~~

~~a. The notice is signed by each individual, corporate or partnership claimant; corporations will sign by an officer and partnerships by a general partner. (7-1-93)~~

~~b. The notice is signed by an agent or attorney in fact for the claimant(s). (7-1-93)~~

~~c. If all or some of the claimants are members of the same family, any adult member of the family may sign as agent for all the members of the family. (7-1-93)~~

~~d. Any person who signs on behalf of any person other than himself or herself shall indicate the capacity in which he or she signs. (7-1-93)~~

~~10. **Certification.** Signature constitutes certification of the truth of the claim. (7-1-93)~~

~~**H02. Supplement.** If there is insufficient space on the form SL-1 for all producer and claimant information, the excess will be entered on a supplement form designated "SL-2." (7-1-93)~~

~~**012101. DURATION, AMENDMENT, ASSIGNMENT, EXTENSION, AND RELEASE OF CLAIM OF LIEN.**~~

~~01. **Duration of Farm Labor Lien.** A notice of claim of lien for farm labor is effective for six (6) months from the date of filing. It may not be extended. **Form.** The form for amendment, assignment, extension, and release of claim of lien shall be designated "SL-3." (7-1-93)()~~

~~a. Form SL-3 must be completed in accordance with instructions provided by the SOS. ()~~

~~b. Collateral information codes shall be used to indicate the crop and the county where the crop is grown. The collateral information codes shall be assigned by the SOS. The SOS will provide a list of the established codes upon request. ()~~

~~02. **Duration of Seed Lien.** A notice of claim of lien for seed is effective for sixteen (16) months from the date of filing. It may be extended one (1) time for an additional six (6) months, provided: (7-1-93)~~

~~a. That the crop subject to the lien is not harvested within ten (10) months after the date of filing; and (7-1-93)~~

~~b. That the notice of extension is filed within sixty (60) days prior to the lapse of the original sixteen (16) month effective period. (7-1-93)~~

~~03. **Release.** When a lien has been satisfied by payment of the amount due to the claimant(s), the claimant(s) must within thirty (30) days thereafter file with the SOS a notice of release of lien, unless the period of effectiveness of the notice of claim of lien would lapse earlier than the end of thirty (30) days. (7-1-93)~~

~~04. **Notice of Extension or Release.** A notice of extension or release of claim of lien will be filed on a form prescribed and approved by the SOS, and shall refer to the original notice of claim of lien by the SOS file number. The form prescribed for notice of extension or release shall be designated "SL-3." It shall be signed in the same manner as the notice of claim of lien, SL-1. (7-1-93)~~

~~0502. **Supplement.** If there is insufficient space on the first page of the form SL-3 for all information, the excess shall be entered on an attached second page SL-3. (7-1-93)~~

~~013102. -- 199. (RESERVED).~~

014200. REGISTRATION AND SUBSCRIPTION FOR LIST OF LIENS IN CROPS FOR SEED OR LIENS IN CROPS FOR FARM LABOR.

~~01. **Registration and Subscription.** Any person may register and subscribe for regular distribution of lists of all presently effective notices of claim of liens in crops **for seed or liens in crops for farm labor** which have been filed under this rule. **Unless otherwise set forth in this chapter, the registration and subscription for the list of liens in crops for seed or liens in crops for farm labor shall be administered by the rules as set forth in IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," Section 201.** (7-1-93)()~~

~~02. **Forms.** The registration and subscription forms for the lists are the forms UCC-5F and UCC-6F, which are described in IDAPA 34.05.01, Section 015, "Rules Governing Farm Products Central Filing System," Office of the Secretary of State. (7-1-93)~~

~~03. **Eligibility to Subscribe.** Registration by filing a UCC-5F entitles the registrant to subscribe for the list of notices of claim of lien under this rule as well as the PML's described in IDAPA 34.05.01, Section 015, "Rules Governing Farm Products Central Filing System," Office of the Secretary of State. A person who is registered under IDAPA 34.05.01 to receive PML's need not re-register under this rule in order to subscribe to the list of notices of claim of lien. Each registrant will be assigned a permanent registration number by the SOS. (7-1-93)~~

~~04. **Renewal.** Registration is effective for a period of one (1) year. Renewal of registration may be filed at any time after ninety (90) days prior to expiration of a current registration period. The registrant must indicate his registration number on the renewal registration form. (7-1-93)~~

~~05. **Change of Name or Address.** Notice of registrant's change of name or address must be made in writing to the SOS. (7-1-93)~~

~~06. **Subscription with Registration.** Subscriptions for the list of notices of claim of lien may be made at the time of registration or at any time during the period for which the registrant is registered; provided that no subscription for a list of notices will run beyond the calendar quarter in which the registration period expires. Subscriptions made at the time of registration will be made on the UCC-5F. (7-1-93)~~

~~07. **Other Subscriptions.** Subscriptions made other than at the time of registration~~

~~must be made on a form UCC-6F. The registrant must indicate his registration number on the subscription form. (7-1-93)~~

~~**08. Coding.** A subscription for the list of notices of claim of lien will be made by entering the number "30" in the "PML No." column or by entering "Seed and farm labor liens" in the "PML Grouping" column. (7-1-93)~~

~~**09. Duration.** A subscription may be annual or by calendar quarter or quarters, which quarter or quarters may be at a specified time in the future. (7-1-93)~~

~~**10. Initial Distribution.** If a subscription starts at any time other than the start of a calendar quarter, the registrant will receive the most recent complete compilation of the list of notices, the most recent cumulative supplement, and all subsequent lists for the period of the subscription. (7-1-93)~~

~~**11. Medium.** The registrant must choose the medium on which the list will be printed by entering either "M" for microfiche or "P" for paper. (7-1-93)~~

~~**12. Copy of Rules.** At the time of registration, each registrant will be issued a copy of these rules. (7-1-93)~~

015201. LIST OF NOTICES OF CLAIM OF LIEN (LIST).

01. Compilation and Distribution. The SOS shall compile and distribute to subscribers therefore, a list which shall include all presently effective notices of claim of liens in crops for seed or liens in crops for farm labor. (7-1-93)()

~~**02. Separate Entries.** There will be a separate entry on the list for each notice filed against each producer; e.g. each producer named on a notice will constitute a separate item on the list. (7-1-93)~~

~~**03. Alphabetical Order.** The list will be arranged alphabetically by producer name, using the surnames of individuals and the first word other than "the" in the names of producers other than individuals. (7-1-93)~~

~~**04. Content.** Each item on the list will include: (7-1-93)~~

~~**a.** The producer's name and address; (7-1-93)~~

~~**b.** The date and time of filing; (7-1-93)~~

~~**c.** The document number assigned by the SOS; (7-1-93)~~

~~**d.** The type of lien (seed or farm labor); (7-1-93)~~

~~**e.** The name and address of each claimant; (7-1-93)~~

~~**f.** The name of each crop in which a lien is claimed; (7-1-93)~~

~~g.~~ For each crop, the county(ies) in which it is growing or to be grown; and (7-1-93)

~~h.~~ If the crop year is other than the calendar year of filing, the crop year. (7-1-93)

~~05. Medium.~~ Subscribers may request distribution on either paper or microfiche. (7-1-93)

~~0602.~~ **Schedule.** The list will be published ~~or supplemented~~ on a bi-weekly schedule to be established by the SOS. (7-1-93)()

~~07.~~ **Supplementation.** The list will be published in complete form at least on the first bi-weekly publication date in each calendar quarter and on such other bi-weekly publication dates as the SOS deems necessary. On the remaining bi-weekly publication dates, the SOS will publish a cumulative supplement relating to the most recent complete list. (7-1-93)

~~0803.~~ **Cut-Off-Time.** In order to be included on a list, a notice of claim of lien must be received by the SOS ~~no later than eight o'clock (8:00) a.m. on the~~ at least one (1) business day prior to publication. (7-1-93)()

~~0904.~~ **Notice of Schedule.** At the beginning of each quarter, the SOS will distribute to each registrant a schedule of proposed publication dates for that calendar quarter. The SOS may, for good cause, deviate from the schedule, but every list will be marked with the actual date of publication. In no case will there be more than eighteen (18) days between publications of lists. (7-1-93)()

~~016202. -- 299.~~ (RESERVED).

~~017300.~~ **REQUEST FOR INFORMATION.**

Requests for information on notices of claim of liens in crops for seed or liens in crops for farm labor, both written and verbal, will comply with IDAPA 34.05.03, "Rule Governing Requests For Information -- Form UCC-4 -- Fees,;" ~~Office of the Secretary of State.~~ (7-1-93)()

~~018301.~~ **FEES.**

01. Notice of Claim of Lien ~~and Notice of Extension.~~ (7-1-93)()

a. The fee is four dollars (\$4) if the form is typed or machine printed, and ~~otherwise~~ is eight dollars (\$8) if hand written. (7-1-93)()

b. The fee shall be paid at the time of filing. (7-1-93)

02. Notice of Amendment, Assignment, or Extension. (7-1-93)()

a. The fee is four dollars (\$4) if the form is typed or machine printed, and ~~otherwise~~ is eight dollars (\$8) if hand written. (7-1-93)()

b. The fee shall be paid at the time of filing. (7-1-93)

03. Notice of Release. No fee charged. (7-1-93)

04. Registration and Subscription for List of Notices. The fees for registration and subscription shall be as set forth in IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," Subsections 303.02 and 303.03. (7-1-93)()

~~a. If a person has not registered in the Farm Products Central Filing System, pursuant of IDAPA 34.05.01, Section 015, "Rules Governing Farm Products Central Filing System," Office of the Secretary of State, the annual registration fee is thirty dollars (\$30). (7-1-93)~~

~~b. The subscription fee for the list of notices of claim of lien is ninety dollars (\$90) per year or twenty three dollars (\$23) per calendar quarter if on microfiche, and one thousand forty dollars (\$1,040) per year or two hundred sixty one dollars (\$261) per calendar quarter if on paper. (7-1-93)~~

~~c. Fees are payable at the time of registration or subscription. (7-1-93)~~

05. Fees for Requests for Information. The fees for requests for information on notices of claim of liens in crops for seed or liens in crops for farm labor, both written and verbal, and for copies of notices of claim of liens in crops for seed or liens in crops for farm labor reported on the certificate, are provided in IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees,;" Office of the Secretary of State. (7-1-93)()

~~019302.~~ -- 999.(RESERVED).

IDAPA 34 - SECRETARY OF STATE

34.05.04 - RULES GOVERNING PUBLIC ACCESS TO UCC FILES

DOCKET NO. 34-0504-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-903(9), 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 457.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 28th day of October, 2010.

Jeff Harvey, UCC Supervisor
Office of the Secretary of State
450 N. 4th St.
P. O. Box 83720
Boise, ID 83720-0080
Phone: (208) 332-2849
Facsimile: (208)334-2847

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-903(9), 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 October 20, 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:

The Secretary of State's Office wishes to repeal this chapter of administrative rules as the services to which this chapter applies and the subsequent fees have become obsolete. The majority of this chapter addresses internal management issues. The fees referenced in this chapter have not been enforced, nor charged for many years.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: No fiscal impact is expected, as the fees referenced in this chapter have not been charged in many years.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the chapter is being repealed because the rules are obsolete.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August, 2010.

IDAPA 34.05.04 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.05.01 - RULES OF THE DIVISION OF PURCHASING

DOCKET NO. 38-0501-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5717(11) and 67-5732, 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 [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 550 through 557.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bill Burns, Administrator, Division of Purchasing at (208) 332-1610.

DATED this 2nd day of November, 2010.

Bill Burns
Administrator
Division of Purchasing
Department of Administration
650 W. State Street
Lower Level, Room B-15
P.O. Box 83720
Boise, Idaho 83720-0075
Telephone: (208) 332-1610

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5717(11) and 67-5732, 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 October 20, 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:

Update rules to require federal contracting qualification of a vendor submitting a bid proposal; increase small purchase exemption limit and professional services exemption limit under which agencies can purchase without formal bid process, from \$75,000 to \$100,000; increase small purchase limit from \$5,000 to \$10,000; clarify mandatory use of open contracts; and establish a mandatory pre-proposal conference for vendors to further communication and clarify Request for Proposals' requirements.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Edith L. Pacillo, Deputy Attorney General, Department of Administration at (208) 332-1832.

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 October 27, 2010.

DATED this 8th day of September, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0501-1001

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Sections 67-5717(11); ~~and 67-5732~~ ~~and 67-2356(1)~~, Idaho Code, by the administrator of the division of purchasing. ~~(3-15-02)~~()

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS.

01. Acquisition. The process of procuring or purchasing property by the state of Idaho. (3-15-02)

02. Administrator. The administrator for the division of purchasing. The administrator is the chief buyer. (3-15-02)

03. Agency. All offices, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction. (3-15-02)

04. Alternate. Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. (3-15-02)

05. Bid. A written offer that is binding on the bidder to perform a contract to purchase or supply property or services in response to an invitation to bid. (3-15-02)

06. Bidder. A vendor who has submitted a bid or quotation on specific property. (3-15-02)

07. Brand Name or Equal Specification. This means a specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent products. (3-15-02)

08. Brand Name Specification. This means a specification calling for one (1) or more products by manufacturers' names or catalogue numbers. (3-15-02)

09. Buyer. An employee of the division of purchasing designated as a buyer, contract administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing activity. (3-15-02)

10. Component. An item of property normally assembled or incorporated with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities. (3-15-02)

11. Concession Services. The granting by the purchasing activity of a right, franchise, authority, property interest or option to a contractor, regardless of whether an expenditure of state or other funds occurs. (3-15-02)

12. Consultant Services. This means work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting and planning. The consultant's services, opinions or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work. (3-15-02)

13. Contract. Contract means any state written agreement, including a solicitation or specification documents and the accepted portions of the solicitation, for the acquisition of property. Generally, the term is used to describe term contracts, definite or indefinite quantity or delivery contracts or other acquisition agreements whose subject matter involves multiple payments and deliveries. A contract shall also include any amendments mutually agreed upon by both parties. (3-15-02)

14. Contractor. A bidder or offeror who has been awarded an acquisition contract. (3-15-02)

15. Director. The chief officer of the department of administration. (3-15-02)

16. Division. The division of purchasing of the department of administration as established by Section 67-5714, Idaho Code. Whenever a purchase is made by the division on behalf of another agency, the division shall be deemed to be acting as the agent for such agency. (3-15-02)

17. Document. When used in these rules, may include electronic documents. (3-15-02)

18. Equal. Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the invitation to bid, request for proposals or request for

quotation. (3-15-02)

19. Equipment. Items of personal property that have a normal useful life expectancy or measurable service life of two (2) or more years. (3-15-02)

20. Formal Sealed Procedure. Procedure by which the buyer solicits competitive sealed bids or competitive sealed proposals by means of an invitation to bid or request for proposals. (3-15-02)

21. Goods. Items of personal property including concession services, not qualifying as equipment, parts or supplies. (3-15-02)

22. Information Technology Property. Includes, but is not limited to, all present forms of computer hardware, computer software or services used or required for automated data processing, computer related office automation or telecommunications. (3-15-02)

23. Invitation to Bid. Means all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. (3-15-02)

24. Lowest Responsible Bidder. The responsible bidder whose bid conforms in all material respects to the invitation to bid or request for proposals and reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price. (3-15-02)

25. Offeror. A vendor who has submitted a proposal in response to a request for proposals for property to be acquired by the state. (3-15-02)

26. Open Contract. A contract awarded by the state of Idaho through the division of purchasing to one (1) or more vendors who have agreed to allow all agencies to procure or purchase specified property under the terms and conditions set forth in the contract. ()

267. Person. Any business, individual, union, committee, club or other organization or group of individuals, not including a state or public agency. (3-15-02)

278. Procurement. The process of obtaining property for state use by lease, rent or any manner other than by purchase or gift. (3-15-02)

289. Professional Services. Work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarian, and research. The knowledge is founded upon prolonged and specialized intellectual training that enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills. (3-15-02)

2930. Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property. Includes concession services and rights to access or use state property or facilities for business purposes. (3-15-02)

301. Proposal. A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award. (3-15-02)

312. Public Agency. Has the meaning set forth in Section 67-2327, Idaho Code. (3-15-02)

323. Purchase. The act of acquiring or procuring property for state use or the result of an acquisition action. (3-15-02)

334. Purchase Order. See also definition of Contract, typically used to acquire property. It is a notification to the contractor to provide the stated property, required material, equipment, supplies or services under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a bidder's proposal or bid. (3-15-02)

345. Purchasing Activity. The division or an agency delegated that authority by the administrator for the division. (3-15-02)

356. Quotation. An offer to supply property in response to a request for quotation and generally used for small or emergency purchases. (3-15-02)

367. Request for Proposals. Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals and is generally utilized in the acquisition of services or complex purchases. (3-15-02)

378. Request for Quotation. The document, form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures. (3-15-02)

389. Requisition. A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing activity acquire the stated requirements. (3-15-02)

3940. Sealed. Includes bids electronically sealed and submitted in accordance with requirements or standards set by the division and bids manually sealed and submitted. (3-15-02)

401. Sealed Procedure Limit. That dollar amount, as established by these rules, above which the formal sealed bid procedure will be used. Said amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. (3-15-02)

412. Services. Personal, general, professional or consultant services, in excess of

personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding or competition is not prohibited or made impractical by statute, rules and regulations or generally accepted ethical practices. (3-15-02)

423. Small Purchase. An acquisition that costs less than the sealed procedure limit. (3-15-02)

434. Solicitation. Means an invitation to bid, a request for proposals or other document issued by the purchasing activity for the purpose of soliciting bids, proposals, or offers to perform a contract. (3-15-02)

445. Specifications. The explicit requirements furnished with an invitation to bid, request for proposals or request for quotations upon which a purchase order or contract is to be based. Unless specifically provided in a solicitation, specifications do not include solicitation conditions or contractual terms including, without limitation, items such as vendor qualification requirements, bid closing times, delivery time or payment terms. (3-15-02)

456. State. This means the state of Idaho including each agency unless the context implies other states of the United States. (3-15-02)

~~**46. State or Statewide Contract.** Contracts for property or services administered by the division on behalf of or for the benefit of an agency. Statewide contracts apply to more than one (1) agency. The contract document will identify the conditions under which usage by agencies is required. (3-15-02)~~

47. Supplies. Items of personal property having an expendable quality or during their normal use are consumed and that require or suggest acquisition in bulk. (3-15-02)

48. Telecommunications. Means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. (3-15-02)

49. Vendor. A person or entity capable of supplying property to the state. (3-15-02)

50. Written. When used in these rules, may include an electronic writing. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

031. COOPERATIVE PURCHASING POLITICAL SUBDIVISIONS.

The various bid statutes relating to municipal corporations, school districts, and counties may authorize these political subdivisions to utilize any contract resulting from a state bid process. A public agency may use state open contracts as authorized by statute and the terms of the state open contract. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

041. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS AND PROPOSALS.

Except as otherwise provided, the acquisition of property exceeding ~~seventy-five~~ one hundred thousand dollars (\$~~75~~100,000) (the sealed procedure limit) shall be by the formal sealed procedure. All vendors submitting responses to solicitations issued by the state must be qualified. All vendors are qualified unless disqualified as defined by Section 67-5730, Idaho Code.

(~~4-2-08~~)()

042. EXCEPTIONS TO FORMAL SEALED PROCEDURE.

Purchases meeting the following criteria need not be purchased by the formal sealed procedure:

(3-15-02)

01. Emergency Purchases. Emergency purchases as authorized by Section 67-5720, Idaho Code, and Section 43. (3-15-02)

02. Small Purchases. Small purchases, unless the administrator specifically requires a formal sealed procedure, made in accordance with Section 044. (3-15-02)

03. Sole Source Purchases. Sole source purchases made through direct solicitation with documented source selection, in accordance with Section 67-5720, Idaho Code, and Section 045. (3-15-02)

04. Reverse Auctions. Purchases through reverse public auctions as authorized by Section 67-5720, Idaho Code. (3-15-02)

05. Federal Government Acquisitions. Acquisitions from the United States of America or any agency thereof. (3-15-02)

06. Rehabilitation Agency Acquisitions. Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules. (3-15-02)

07. Correctional Industries. Purchases of road or street signs, metal motor license plates, wearing apparel, furniture, articles or containers for state use not for resale on the open market or any other property marketed directly by Correctional Industries in accordance with Section 20-245, Idaho Code. (3-15-02)

08. Purchases from General Services Administration Federal Supply Contractors. Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid. The administrator shall determine whether such property meets the purchasing activity's requirements and whether the price of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. If the administrator determines that the acquisition of property from General Services Administration contractors is not advantageous to the state, the acquisition shall be in accordance with competitive bidding procedures and requirements. (3-15-02)

09. Existing ~~State or Statewide~~ Open Contracts. Supplies, services or other property available under these contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. (3-15-02)()

10. Exempt Purchases. By written policy the administrator may exempt from the formal sealed procedure or the requirement for competitive acquisition that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances. (3-15-02)

- a.** Examples include, but are not limited to: (3-15-02)
- i.** Special market conditions; (3-15-02)
 - ii.** Property requiring special contracting procedures due to uniqueness; (3-15-02)
 - iii.** Legal advertising, publication or placement of advertisements by state agency personnel directly with media sources; or (3-15-02)
 - iv.** Services for which competitive solicitation procedures are impractical. (3-15-02)
- b.** Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

044. SMALL PURCHASES.

01. General. Small purchases are those purchases or procurements expected to cost ~~seventy five~~ **one hundred** thousand dollars (\$~~75~~**100**,000) or less. Costs are determined based on the following: (4-2-08)()

- a.** One-time purchases of property; or (3-15-02)
- b.** Total cost of a contract for services, including renewal or extension periods. (3-15-02)

02. Splitting of Requirements. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. (3-15-02)

03. Procedure. Unless impractical or impossible and documented in the file, these small purchase procedures require the acquisition to be publicly posted. Except as otherwise provided in this rule, no less than three (3) vendors having a significant Idaho presence as defined by Section 67-2349, Idaho Code, shall be solicited to submit quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible

to solicit three (3) vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible. (3-15-02)

04. Form of Request for Quotation. Unless otherwise prohibited by the buyer, the request for quotation and the quotation may be written, oral, electronic, telephonic or facsimile. (3-15-02)

05. Quoting Time. The quoting time shall be determined by the buyer and should provide sufficient time for the vendor to prepare and return a quotation. The amount of time shall take into consideration such factors as complexity, urgency, availability of property and the number and location of vendors. (3-15-02)

06. ~~Statewide~~ Open Contracts. Property available under single agency or ~~statewide open~~ contracts shall be purchased under such contracts and not as a small purchase under this rule unless otherwise authorized by the administrator. (~~3-15-02~~)()

07. Professional, Consultant, and Information Technology Services. Professional, consultant, and information technology services acquired under this rule, where the services are reasonably expected to cost ~~seventy-five~~ **one hundred** thousand dollars (\$~~75~~**100**,000) or less through a fixed price/not to exceed price contract for a non-renewable term not to exceed one (1) year, may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state, ~~and if the service is not available under an open contract.~~ (~~4-2-08~~)()

08. Purchases in Amounts Less Than ~~Five~~ **Ten Thousand Dollars.** If the property to be acquired is expected to cost less than ~~five~~ **ten** thousand dollars (\$~~5~~**10**,000), it may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state, ~~and if the property is not available under an open contract.~~ (~~3-15-02~~)()

(BREAK IN CONTINUITY OF SECTIONS)

051. CONTENT OF THE INVITATION TO BID OR REQUEST FOR PROPOSALS.
The following shall be included in an invitation to bid or a request for proposals: (3-15-02)

01. Submission Information. Information regarding the applicable opening date, time and location. (3-15-02)

02. Specifications. Specifications developed in accordance with these rules including, if applicable, scope of work. (3-15-02)

03. Contract Terms. Terms and conditions applicable to the contract. (3-15-02)

04. Evaluation Criteria. Any evaluation criteria to be used in determining property acceptability. (3-15-02)

05. Trade-In Property. If trade-in property is to be included, a description of the property and location where it may be inspected. (3-15-02)

06. Incorporation by Reference. A brief description of any documents incorporated by reference that specifies where such documents can be obtained. (3-15-02)

07. Pre-Proposal Conference. The date, time and location of the pre-proposal conference must be included in the Request for Proposals. ()

(BREAK IN CONTINUITY OF SECTIONS)

062. -- ~~070~~69. (RESERVED).

070. PRE-PROPOSAL CONFERENCE.

All Request for Proposals' solicitations will have a pre-proposal conference for vendors and will be conducted by the procurement team and project personnel. The conference will consist of a general overview of the procurement process as well as the scope of work and requirements of the subject Request for Proposal. The procurement team will allow attendees to submit written questions and may provide an opportunity for a verbal question and answer period, provided, however, that only questions submitted and answered in written form and posted to the state's eProcurement system as an amendment to the Request for Proposal, will have any force or effect. ()

IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Office of the Administrative Rules Coordinator and is now pending review by the 2011 Idaho Legislature for final approval. This pending rule will become final and effective at the conclusion of the 2011 legislative session, unless it is approved, rejected, amended or modified by concurrent resolution of the Legislature in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule will become final and effective upon adoption of the concurrent resolution or upon the date provided in the concurrent resolution.

AUTHORITY: Pursuant to section 67-5224, Idaho Code, the Office of the Administrative Rules Coordinator gives notice that it has adopted a pending rule. This rulemaking is authorized by Section 67-5206(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the proposed rule and the text of the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the [June 2, 2010, Idaho Administrative Bulletin, Vol. 10-6, pages 55 through 63.](#)

This rulemaking implements the provisions of House Bills 412 and 413 by clarifying and modifying certain definitions. It also changes references to the publication and purchase of printed and bound volumes to electronic-only versions of the Administrative Code and Administrative Bulletin and adjusts subscription rates. It removes redundant and obsolete language and clarifies ambiguous language. Several non-substantive housekeeping changes that conform the rule to current style requirements have also been made.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Dennis Stevenson, Administrative Rules Coordinator, at 208-332-1820 or email at rulescoordinator@adm.idaho.gov.

Dated this 6th day of October, 2010.

Dennis Stevenson
Administrative Rules Coordinator
650 W. State Street, Room 100
PO Box 83720

Boise, Idaho, 83720-0306
Phone: 208-332-1820
Fax: 208-332-1896

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Administrative Rules Coordinator has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to the Administrative Procedure Act, Section 67-5206(1), 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 June 16, 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:

This rulemaking implements the provisions of House Bills 412 and 413 by clarifying and modifying certain definitions; changing references to the publication and purchase of printed and bound volumes to electronic-only versions of the Administrative Code and Administrative Bulletin and adjusts subscription rates; eliminating redundant and obsolete language; and clarifying ambiguous language. It also makes several housekeeping changes to conform rule to current style requirements.

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

The adoption of this temporary rule is necessary to meet deadlines in governing law and it confers a benefit to the state through decreased expenditures for the publication and dissemination of rules and related documents.

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: No fees or charges are being imposed or changed through this rulemaking.

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

There is no negative fiscal impact to the general fund as a result of this rulemaking. This rulemaking will reduce expenditures.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the need for the adoption of a temporary rule rendered negotiated rulemaking unfeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule contact Dennis Stevenson, Administrative Rules Coordinator, at 208-332-1820 or email at rulescoordinator@adm.idaho.gov.

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 June 23, 2010.

DATED this 10th day of June, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 44-0101-1001

005. INCLUSIVE GENDER.

For all ~~sections and subsections of all~~ administrative rules in Idaho, the terms and references used in the masculine include the feminine and vice versa, as appropriate. ~~(4-5-00)~~()

006. SEVERABILITY.

~~The sections and subsections of a~~ All administrative rules in Idaho are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ~~(7-1-93)~~()

(BREAK IN CONTINUITY OF SECTIONS)

009. ~~(RESERVED)~~ ELECTRONIC ACCESS - WEB ADDRESS.

~~The Administrative Code and the Administrative Bulletin are published in electronic format only and may be accessed, along with other rules-related documents, through the Department of Administration's web portal on the Rules Coordinator's web site at the following address: <http://adm.idaho.gov/adminrules/>.~~ ()

010. DEFINITIONS.

- 01. APA.** The Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-93)
- 02. Agency.** Each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in section 1, article IV, of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction. (7-1-93)
- 03. Agency Action.** In these rules as it relates to rulemaking means the whole or part of a rule, or the failure to issue a rule. (~~7-1-93~~)()
- 04. Agency Head.** An individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. (7-1-93)
- 05. Bulletin.** The Idaho Administrative Bulletin, as established in Section 67-5203, Idaho Code. (7-1-93)
- 06. Catchline.** A short description ~~of the section or subsection to~~ used in the first subdivision level of a rule that introduces a block of text ~~at the major section level and first sublevel.~~ (~~7-1-93~~)()
- 07. Certified Rules.** Rules certified in effect during a specified period in time after July 1, 1993. Only the coordinator shall certify rules as the officially promulgated rules of Idaho. (7-1-93)
- 08. Code.** The Idaho Administrative Code, as established in Section 67-5204, Idaho Code. (7-1-93)
- 09. Coordinator.** The office of the Administrative Rules Coordinator, as ~~created~~ established in Section 67-5202, Idaho Code. (~~7-1-97~~)()
- 10. Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)
- 11. Form or Format.** The internal organization, structure and presentation of the rules in Idaho as set forth in this chapter. (7-1-93)
- 12. IDAPA.** A numbering designation for The acronym for "Idaho Administrative Procedure Act" that is used with a numbering schematic that uniquely identifies all administrative rules in Idaho which denotes rules promulgated in accordance with the Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code). The numbering schematic denotes designates a distinct agency code, a title code, and chapter code and section, subsection, paragraph, and subparagraph numbering, as appropriate that, when combined, identify an individual rule chapter of an agency. This numbering designation is referred to as the IDAPA number and the

administrative rules are often referred to as the IDAPA rules. (~~3-30-01~~)()

13. Legal Citation. The specific reference to a document or passage of a document using the generally accepted method of notation. For all rules, the designation incorporates a form of the IDAPA numbering schematic. (7-1-93)

14. Legislative Format. A form of displaying modifications to text by underscoring new text and overstriking deleted text. (7-1-97)

15. Numbering. The alpha-numeric ~~display~~ schematic ~~for the~~ used to identify and subdivide the administrative rules ~~in Idaho, also known as the IDAPA system,~~ as set forth in this chapter. (~~7-1-93~~)()

16. Official Text. Text of a document promulgated by an agency and published in the Administrative Code in accordance with Title 67, Chapter 52, Idaho Code, ~~and that~~ is the only legally enforceable text of such document. (~~7-1-93~~)()

17. Page. For purposes of determining the fees charged to state agencies for Bulletin and Code publication and promulgation, one (1) page is one (1) ~~impression~~ side of ~~the official text published in the Code or Bulletin~~ an electronic document that if printed would be eight and one-half (8 1/2) inches wide by eleven (11) inches long. (~~7-1-97~~)()

18. Publish. To bring before the public by publication in the Bulletin or Administrative Code, or as otherwise specifically provided by law. (7-1-93)

19. Regulation. A federal rule promulgated in accordance with the federal Administrative Procedure Act, Public Law 404, 60 Stat. 237 (1946), as amended. (7-1-93)

20. Rule. The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Title 67, Chapter 52, Idaho Code, that implements, interprets, or prescribes a law or policy, or the practice and procedure requirements of an agency. The term includes the amendment, repeal, and suspension of an existing rule. (~~7-1-93~~)()

21. Rule ~~Drafter~~ Writer. A person who creates, modifies, or proposes change to the administrative rules of the state of Idaho. (~~7-1-93~~)()

22. Rulemaking. The process for formulation, ~~and promulgation, in order to~~ adoption, amendment, or repeal a rule. (~~7-1-93~~)()

23. Section, Subsection, Paragraph, and Subparagraph. Section, subsection, paragraph, and subparagraph are divisions that breakdown a rule into separate blocks of text that are numbered using the numbering schematic set forth in this rule. ~~If further breakdown of the rule beyond the subparagraph level is required approval must be granted by the Administrative Rules Coordinator.~~ The text of a rule is subdivided in the following format: (~~3-30-01~~)()

a. Section. ~~This will~~ A main section includes all text that appears at the ~~main~~ three-digit level and any subdivisions thereof. As an example, this text is part of the larger main Section

“010.” This entire section is cited as Section 010 and includes all text starting at 010 and ending at 010.24. ~~(3-30-01)()~~

b. Subsection. This is the ~~further breakdown~~ first subdivision of a main section and ~~will~~ uses a two-digit numeric code. As an example, this subsection is “23” and is cited as Subsection 010.23. ~~(3-30-01)()~~

c. Paragraph. ~~This is the further breakdown of~~ A paragraph subdivides a subsection and ~~will~~ uses a lower case alphabetic code followed by a period. As an example, this paragraph is “c.” and is cited as Paragraph 010.23.c. ~~(3-30-01)()~~

d. Subparagraph. ~~This is a further breakdown of~~ A subparagraph subdivides a paragraph and ~~will~~ uses a lower case roman numeral numeric code followed by a period. As an example, a further breakdown of this paragraph “d.” would be cited as Subparagraph 010.23.d.i. ~~(3-30-01)()~~

24. **Style.** A method of writing rules denoting standard elements of consistency, simplicity, and clarity as set forth in this chapter. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

051. AGENCY PAYMENT FOR RULEMAKING, PUBLICATION, AND DISTRIBUTION.

Pursuant to Section 67-5205(4), Idaho Code, the coordinator is authorized to allocate the costs of for publication and distribution of all rules published electronically in the Code and the Bulletin to each participating agency on a per-page basis. A per-page fee may be charged even though less than a full page of text is required to be published. ~~(7-1-93)()~~

~~01. Less Than a Full Page. The cost per page may be imposed even though less than a full page of publication is required.~~ ~~(7-1-97)~~

021. Cost to Agencies for Code Publication. ~~Pursuant to Section 67-5205(4), Idaho Code,~~ ~~†~~ The fee charged for rules ~~of each agency contained~~ that are electronically published in the Code ~~billed to the respective agency shall~~ may not exceed fifty-six dollars (\$56) ~~for each per~~ page ~~of the Code.~~ The fee ~~shall be calculated~~ is based on actual pages published by the coordinator for each agency within the official copy of the Code. The cost allocations to each participating agency will coincide with the annual publication of the Code and each agency must promptly pay into the Administrative Code Account such allocated costs. ~~(3-20-04)()~~

032. Cost to Agencies for Bulletin Publication. ~~Pursuant to Section 67-5205(4), Idaho Code,~~ ~~†~~ The fee charged for rules ~~of each agency contained~~ that are electronically published in the Bulletin ~~billed to the respective agency shall~~ may not exceed sixty-one dollars (\$61) ~~for each per~~ page per publication event. This fee ~~shall be calculated~~ is based on actual pages published by the coordinator for each agency within the official copy of the Bulletin. The cost allocations to each participating agency ~~shall~~ will be made monthly by the coordinator, and each

participating agency ~~shall~~ **must** promptly pay into the Administrative Code Account such ~~allocated~~ costs. (3-20-04)()

052. ~~COSTS OF~~ PUBLICATIONS - SUBSCRIPTION RATES AND FREE DISTRIBUTION.

Pursuant to Section 67-5205(2), Idaho Code, the coordinator is authorized to charge for ~~copies of~~ all APA-related publications. (3-20-04)()

~~01. **Cost of Individual Rule Chapters.** The prices to be charged for chapters of rules or portions thereof will not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page.~~ (7-1-97)

021. Cost of Certified Rules. Printed copies of certified rules will be provided without charge to authorized state agency personnel and will include an affidavit of certification, notarized by the coordinator, and a copy of specific rules in effect on a specific date after July 1, 1993. (7-1-97)()

~~032. **Cost of Subscription Rate for the Administrative Bulletin.** The prices to be charged for the Bulletin in the form of an annual subscription will not exceed four hundred dollars (\$400) per year. The price for individual, monthly issues, which are subject to availability, will not exceed the larger of forty dollars (\$40) per volume or twenty cents (\$.20) per page, plus sales tax, if applicable. An annual subscription to the Bulletin on CD-ROM, which begins with the first Bulletin published following the adjournment of the legislative session and ends with the January Bulletin just prior to the commencement of the next succeeding legislative session, will not exceed one hundred dollars (\$100) per year, plus applicable sales tax. A copy of an individual CD of the Bulletin will not exceed twenty dollars (\$20), plus applicable sales tax.~~ (3-16-04)()

~~043. **Cost of Subscription Rate for the Administrative Code.** The prices to be charged for the Code in the form of an annual subscription will not exceed four hundred and fifty dollars (\$450) plus sales tax, if applicable, per year. Individual copies of the Administrative Code may be purchased but are subject to availability. The cost per volume will not exceed seventy-five dollars (\$75). Annual subscriptions for the Code on CD-ROM will not exceed one hundred dollars (\$100) per CD. The coordinator may provide discounts for volume purchases.~~ (3-16-04)()

054. Free Distribution of Publications. In accordance with Section 67-5205(2), Idaho Code, the coordinator will distribute copies the Code on electronic media free of charge as follows to the repositories listed in 67-5205(2), Idaho Code. (3-20-04)()

- ~~a. One (1) to each county clerk for the use of the county law library. (7-1-93)~~
- ~~b. One (1) each to the senate and the house of representatives. (7-1-93)~~
- ~~c. One (1) to the attorney general. (7-1-93)~~
- ~~d. One (1) to the legislative council. (7-1-93)~~
- ~~e. One (1) each to the state universities and colleges, and one (1) to each community~~

~~college. (7-1-93)~~

~~f. One (1) to the state law library. (7-1-93)~~

~~g. One (1) to the state library. (7-1-93)~~

~~h. One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, College of Idaho Library, BYU-Idaho Library, Northwest Nazarene University Library and Twin Falls Public Library. (9-7-94)~~

~~06. **Other Free Publications.** The coordinator may distribute free copies for official use and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. (3-20-04)~~

053. -- 099. (RESERVED).

100. **FILING AND REVIEW AND SUBMISSION OF AGENCY RULES.**

01. Coordinator's Review of Rules Filed for Publication. In accordance with Section 67-5202(3), Idaho Code, the coordinator will prescribe a uniform style, form, and numbering system that will apply to all rules adopted by all Idaho state agencies. The coordinator will review all submitted rules filed for publication for style, format, and numbering, and may return a rule that is not in the proper style, form, or number. (7-1-93)()

012. Submission of Agency Rule Filing. All agencies must submit file a copy of their respective rules in accordance with Sections 67-5202(3), 67-5221(1), 67-5224(2), and 67-5226(4), Idaho Code, for publication in the Bulletin, certified by the agency director or designee, in the following a formats prescribed by the coordinator. (6-7-94)()

~~a. All submitted rules in will be printed, one-sided only, on eight and one-half (8 1/2) inch wide by eleven (11) inch long paper denoting all changes in legislative format; and (7-1-97)~~

~~b. All Rules submitted rules will be provided electronically denoting legislative format. Electronic filing may include, but is not limited to, electronic mail, FTP, diskette, or other electronic transfer methodology. (7-1-97)~~

~~c. All rules submitted to the coordinator must be obtained from the most current document available from the coordinator. (7-1-97)~~

~~02. Submitted Rules. All submitted rules must be numbered, styled and formatted in accordance with these rules. (7-1-97)~~

101. **UNIFORM STYLE AND FORMAT OF RULES.**

In accordance with Section 67-5206(1)(b), Idaho Code, the coordinator will establish a uniform style and format applicable to rules adopted by all agencies. (7-1-93)

01. Standard Requirements of Style. Text used within a rule includes three (3)

distinct elements; consistency, simplicity, and clarity. (7-1-97)

a. Consistency denotes standardized arrangement of specific organizational division of text as well as language structures. Rule text must appear with consistent application of terms, sentences, structures, formats, numbering, and other structures to avoid confusion to the reader. (7-1-93)

b. Simplicity denotes presentation of complex ideas into easily understood concepts within the text of the rule. (7-1-93)

c. Clarity in rule drafting avoids unclear, ambiguous and obscure terms. Rules are to be simple, concrete combinations of text that conveys the meaning while avoiding vagueness and the need for varying interpretations. (7-1-93)

02. Uniform Format Requirements. Uniform format is required for all rules adopted in accordance with the APA. All rules must incorporate consistent organizational structure and content that will allow the coordinator to consistently index and reference all rules. Rules not formatted as described in this chapter will not be inserted in the Code and will not be considered valid for the purposes of Section 67-5231(1), Idaho Code. Specific requirements are as follows: (7-1-97)

a. All major sections must include the numbering scheme provided in this chapter followed by the capitalized catchline. (7-1-97)

b. The first required section of each rule chapter (“000”) ~~will be~~ **is** entitled “Legal Authority.” This section ~~will~~ **must** include all statutory authority granted or implied to the agency, ~~both state and federal, that allow~~ **sanctioning** rulemaking ~~authority~~ as set forth Section 67-5231(1), Idaho Code. (7-1-93)()

c. The second required section of each rule chapter (“001”) ~~will be~~ **is** entitled “Title And Scope.” This section ~~will~~ **must** include a precise description of the legal citation of the chapter. Also, this section ~~must~~ **includes** a brief descriptive summary of the scope of the rule. (7-1-93)()

d. The third required section of each rule chapter (“002”) ~~will be~~ **is** entitled “Written Interpretations.” This section ~~will~~ **must** indicate if the agency has or relies on any written interpretive statements ~~of the rule chapter, or guidance documents, as described in 67-5250(2), Idaho Code, that are intended to guide agency actions affecting the rights or interests of persons outside the agency~~ in accordance with Section 67-5201(19)(b)(iv), Idaho Code. (3-30-01)()

e. The fourth required section of each rule chapter (“003”) ~~will be~~ **is** entitled “Administrative Appeals.” This section ~~will~~ **must** describe any appeal or hearing rights for affected individuals relating to the programs or services described in the rule chapter. (7-1-93)()

f. The fifth required section of each rule chapter, the “004” section, will be entitled “Incorporation By Reference.” This section will describe and list all documents being incorporated by reference into the rule pursuant to, and in accordance with, Section 67-5229,

Idaho Code. (3-30-01)

g. The sixth required section of each rule chapter, the “005” section, will be entitled “Office -- Office Hours -- Mailing Address And Street Address.” This section includes the principal location of the main office, the hours the office is open to the public, the mailing address where documents may be filed or obtained, and the physical address of the main office of the agency. (3-30-01)

h. The seventh required section of each rule chapter, the “006” section, will be entitled “Public Records Act Compliance” and will state that the rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. (3-30-01)

i. The eighth required section of each rule chapter, one (1) of “007” through “010” sections, will be entitled “Definitions.” This section lists alphabetically all terms distinct to the rule chapter. Definitions are used to describe specific terms of art and other words or phrases to aid the user in describing the intent of the rule. (3-30-01)

j. Reserved major sections may be used as appropriate to allow for expansion, segregation, and flexibility within the chapter. Subsections, paragraphs, and subparagraphs shall not be designated as reserved. (3-30-01)

k. The remaining sections within the body of the rule chapter, the “011” through “999” sections, may be used as the agency deems necessary for describing the programs, services, requirements, focus and intent of the rule. (7-1-93)

l. A paragraph of descriptive references may be used at the end of the major section after all sublevel sections. This descriptive paragraph may include: effective dates set by the legislature, cross-references, compiler’s notes, references or extractions of written interpretations, or other reference tools approved by the coordinator. The descriptive paragraph will include a format and style distinct from the text of the rules as approved by the coordinator. (7-1-97)

03. Maps, Charts, Graphs, Diagrams, and Other Visual Aids. Rules may contain maps, charts, graphs, diagrams, illustrations, forms, or similar descriptive text within the body of the rule. (7-1-97)

~~**a.** Agencies are encouraged to include written interpretations of the rule where the requirement to list the material in the rule is in question.~~ (7-1-97)

~~**b.** Agencies are encouraged to include written interpretations by incorporating such documents by reference, in accordance with Section 67-5229, Idaho Code.~~ (7-1-97)

04. Legislative Format. ~~All modified rule text shall underscore text to be added and overstrike text to be deleted~~ When modifying rule text, all new text that is being added is underscored and all existing text that is being deleted is overstruck. (7-1-97)()

a. In the case of amendment to a current rule, the desired amendments to text are made using legislative format. The effective date ~~shall be~~ **is** overstruck followed by parentheses

surrounding eight (8) underscored spaces, flushed right.

~~(7-1-93)~~()

b. When an agency proposes to enact a new section within an existing rule, the entire proposed text is underscored. All effective dates are noted as parentheses surrounding eight (8) underscored spaces, flushed right.

(7-1-93)

c. When an agency proposes to repeal a complete chapter, overstriking is not required. The Bulletin will note that the chapter has been “Repealed In Its Entirety.”

(7-1-93)

d. When an agency proposes to adopt a complete chapter of rules, underscoring is not required. The effective date will be noted as parentheses surrounding eight (8) spaces, flushed right, after each block of text.

(3-30-01)

e. Modifications to text appearing in the paragraph of descriptive references does not appear in legislative format.

(7-1-97)

102. UNIFORM NUMBERING OF RULES.

In accordance with Section 67-5206(1)(a), Idaho Code, the coordinator must establish a uniform numbering system applicable to rules adopted by all agencies.

(7-1-93)

01. IDAPA Numbering. The uniform numbering ~~system~~ schematic used to designate and identify individual rules is known as the “IDAPA” numbering system. For a complete citation, rule numbering is preceded with the term “IDAPA,” followed by a two-digit numerical agency code followed by a period, a two-digit numerical division or title code followed by a period, and a a two-digit numerical program or chapter code. For example, this chapter is numbered as follows: IDAPA 44.01.01.

~~(3-30-01)~~()

02. Internal Numbering - Section Number. All chapters of agency rules are divided into major sections identified by a three-digit number beginning with “000” and ending with “999.”

~~(7-1-93)~~()

03. Subdivision Numbers. Three (3) sublevels, which further subdivide the chapter, are allowed following the major section code.

~~(3-30-01)~~()

a. The first ~~sub~~level subdivision, called a Subsection, ~~shall be~~ consists of a two-digit numeric code, beginning with “01.” and, if needed, may go to three digits, i.e. “100.”

~~(3-30-01)~~()

b. The second ~~sub~~level subdivision, called a Paragraph, ~~shall be~~ consists of a single-digit alphabetic code followed by a period beginning with the letter “a.” and ending with “z.” ~~On a case-by-case basis, the coordinator may allow additional characters f~~ For expansion of this sublevel, using a double-digit alphabetic code beginning with “aa.” and ending with “zz.” may be used.

~~(3-30-01)~~()

c. The third ~~sub~~level subdivision, called a Subparagraph, shall be a lower case roman numeral code, beginning with “i.”

~~(3-30-01)~~()

d. On a case-by-case basis, the coordinator may allow additional sublevel divisions

consisting of an alternating code of numbers and letters enclosed in parentheses. ~~(3-30-01)~~()

04. Cross-Referencing. In order to clarify intent or avoid repetition, references to other rules are allowed. Such references are divided as follows: (7-1-93)

a. Internal Reference/Citation. References to a section or sections within a chapter *shall must* provide a thorough notation of the identity of the text referenced. A citation to this section is “Paragraph 102.04.a. of these rules.” Internal references may also utilize the complete legal citation using the complete IDAPA numbering system. A citation to this *section paragraph* is “IDAPA 44.01.01.102.04.a.” ~~(3-30-01)~~()

b. External Reference/Citation. References outside the chapter *shall must* identify the complete legal citation using the IDAPA numbering system and *shall must* include the name of the agency, the name of the chapter being referenced and the complete legal citation of the chapter being referenced. ~~(3-30-01)~~()

c. External referencing of documents other than Idaho administrative rules *shall must* follow the provisions of Section 67-5229, Idaho Code, regarding incorporation by reference. ~~(7-1-93)~~()

103. EXEMPTION FROM REGULAR RULEMAKING PROCEDURES.

Pursuant to Section 67-5202(2), Idaho Code, the coordinator is authorized to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules. All proposed clerical revisions must be submitted to the coordinator for consideration and approval. ()

1034. -- 599. (RESERVED).

600. IDAHO ADMINISTRATIVE BULLETIN.

The coordinator *shall* receive s all documents required by the APA to be published in the Bulletin. ~~(7-1-93)~~()

01. Information. The Bulletin *shall must* contain specific information concerning the use of the Bulletin, the rulemaking process in general, specific information concerning the documents being promulgated, and other information deemed necessary by the coordinator to describe the documents being published. ~~(7-1-93)~~()

02. Table of Contents. Each issue of the Bulletin *shall must* contain a table of contents. ~~(7-1-93)~~()

03. Cumulative Index. A cumulative index *shall must* be published at least every three (3) months. ~~(7-1-93)~~()

04. Documents to Be Published. Such documents are identified in Section 67-5203(4), Idaho Code. (7-1-93)

05. Other Documents. Each issue of the Bulletin may include other reference-related documents as determined by the coordinator. (7-1-97)

601. IDAHO ADMINISTRATIVE BULLETIN PUBLICATION SCHEDULE.

Agencies ~~shall~~ **must** file **all** documents designated for publication in the Bulletin with the *Office of the Administrative Rules* coordinator. ~~Documents must be submitted no later than 5:00 p.m. on the filing date that is published in the “Bulletin Publication Schedule” in the preface of the Idaho Administrative Bulletin. A copy of the “Bulletin Publication Schedule” may be obtained by contacting the Office of the Administrative Rules Coordinator.~~ (7-1-99)

~~01. Time.~~ **The All** documents must be submitted no later than 5 p.m. on **the closing date for agency filing date as published as listed** in the “Bulletin Publication Schedule” in the preface of the *Idaho Administrative Bulletin* **and the coordinator’s website. Any documents filed after the closing date for agency filing will be published in the first available Bulletin, as determined by the coordinator.** (7-1-99)()

~~02. Date of Submission.~~ ~~Documents must be submitted by the closing date for agency filing as published in the “Bulletin Publication Schedule” in the preface of the Idaho Administrative Bulletin. All documents filed after the closing date shall be published at the discretion of the Office of Administrative Rules with the permission of the Administrative Rules Coordinator.~~ (7-1-99)

602. -- 699. (RESERVED).

700. IDAHO ADMINISTRATIVE CODE.

Pursuant to Section 67-5204, Idaho Code, the coordinator will **annually** publish a ~~compilation of all final agency rules in~~ **publication to be known as the Idaho Administrative Code. The Code is a codification of all executive orders of the governor that have been published in the Bulletin and have not been rescinded, the text of all final rules, any legislative documents affecting a final agency rule, and all documents required by law to be published in the Code.** No negotiated, proposed, or pending rules ~~shall be included~~ **are published** in the Code. Temporary rules that meet the requirements of Section 67-5226, Idaho Code, ~~and that are in effect at the time of publication will be included~~ **are published** in the Code. ~~Each annual Code publication includes all codified rules approved as final at the end of each legislative session.~~ (7-1-99)()

~~**701. IDAHO ADMINISTRATIVE CODE PUBLICATION SCHEDULE.**~~

~~All documents filed in accordance with Section 67-5224(5), 67-5224(6), and 67-5224(7), Idaho Code, and IDAPA 44.01.01, will be published in the Code. Other documents required for publication in the Code must be received by the coordinator or the Office of the Administrative Rules Coordinator no later than June 1 of each year.~~ (7-1-99)

702~~1~~. -- 799. (RESERVED).