

Great Seal of Idaho



OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

RULE WRITER'S MANUAL:

A Guide for Promulgating Administrative Rules in the State of Idaho

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SINE DIE UPDATES POSTED HERE

Upon Sine Die, significant legislative changes affecting administrative rules more generally will be posted here then integrated into the manual content, during the annual manual review and update. 2024 As follows:

MOVING RULES TO STATUTE

House Bill 563 adds further direction to agencies beginning ongoing rule review in 2026. When a chapter is up for review, the agency must develop a report for the Legislature explaining the rationale for the necessity of existing rules and whether the rules should be moved into statute. Agencies should consider three things when deciding whether to move rules into statute when reviewing their rules:

- The benefit of having all related requirements in a single location in Idaho Code.
- The frequency with which the substantive content of the administrative rule has been updated in the prior five years, and the anticipated frequency of updates in the near future.
- The cost of publishing and maintaining the administrative rule in the Idaho administrative code and bulletin. As a reminder, Idaho Code 67-5204(6)(a)(i) mandates that agencies must pay \$56 per page annually to maintain and publish the administrative code.

While this provision of HB 563 does not statutorily kick in until 2026, as you review chapters for ZBR, please consider moving rules to statute where appropriate. Agencies should consider integrating their Executive Agency Legislation and ZBR with this provision of HB 563 in mind.

In 2024, two bills passed that demonstrate how to simultaneously eliminate rules as part of a statutory update, so that agencies do not have to worry about a rule repeal passing without the legislation simultaneously moving forward as well:

Bill Number	Approach	Bill Language
HB 422	Elimination of whole rule chapter	SECTION 47. The rules contained in IDAPA 08.02.04, relating to Rules Governing Public Charter Schools, shall be null, void, and of no force and effect on and after the effective date of this act.
HB 527	Elimination of targeted rule subparts	SECTION 27. The rules contained in IDAPA 24.36.01, relating to Rules of the State Board of Pharmacy, Section 010., Subsection 14.; Section 010., Subsection 18.; Section 100.; Section 101.; Section 211.; and Section 212. Shall be null, void, and of no force and effect on and after July 1, 2024.

ADMINISTRATIVE RULEMAKING OVERVIEW

The Idaho Administrative Procedure Act, (Title 67, Chapter 52, Idaho Code), governs rulemaking in Idaho, and defines rulemaking as the process for the formulation, adoption, amendment, or repeal of a rule. The process can be driven by different events.

A statutory or regulatory change may require an agency to adopt new administrative rules or revise existing rules. Through rules the agency interprets, prescribes, and implements statutory law or policy; and clarifies, standardizes, or establishes its procedure or practice requirements. Rulemaking authority is derived from statutory law and is an agency's ability to make law under powers granted by the Legislature through statute. All rules promulgated under this authority and in accordance with the Administrative Procedure Act (APA), have the full force and effect of law. However, statute always takes precedent over rule.

Idaho's statutory definition of a rule can be found in Section 67-5201(19) of the Idaho Administrative Procedure Act. The concept is broadly defined:

- (19) *"Rule" means the whole or part of an agency statement of general applicability that has been promulgated in compliance with the provisions of this chapter and that implements, interprets, or prescribes:*
- (a) *law, or*
 - (b) *the procedure or practice requirements of an agency. The term includes the amendment, repeal or suspension of an existing rule, but does not include:*
 - i) *statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or*
 - (ii) *declaratory rulings issued pursuant to Section 67-5232, Idaho Code; or*
 - (iii) *intra-agency memoranda; or*
 - (iv) *any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with....*

Before beginning to write an administrative rule, identify all state and federal laws that authorize rulemaking and determine the objectives of the rulemaking. Develop an outline of the rule that organizes the general subject matter in a logical format. The purpose of a rule is to balance the statutory mandates and legislative intent of the law with any constitutional or federal mandates, executive orders of the Governor, and the agency mission. Standards provide consistency across all state agency rules. Each chapter begins with standardized sections that include legal authority and scope; and if applicable, incorporation by reference and definitions.

Have a clear understanding of statutory definition when determining what can be promulgated as a rule, in order to meet the legislative intent of the authorizing statute, and to withstand legislative scrutiny or judicial review. A rule that is not promulgated in compliance with the APA is voidable. Likewise, any rule that is found to have exceeded, or fails to meet the intent of the authorizing statute—or one that goes outside its substantive rulemaking authority— may be voided.

The rule promulgation* process in Idaho is made up of specific legal requirements, and the actions taken by the agency when conducting rulemaking must follow a specific order. For a rule to become final and effective with the full force and effect of law, the process must closely adhere to the requirements outlined in the Idaho Administrative Procedure Act.

***Promulgate: to carry out the formal process of rulemaking established by the APA in Idaho Code.**

REPEALS, REWRITES, AND NEW CHAPTERS

When an entire chapter of rules is no longer necessary, valid, or enforceable, it is usually in the agency's best interest to repeal the chapter. Repealing is a rulemaking action that must follow the same procedures outlined in the APA. It is not necessary to publish the text of a rule that is being repealed, but it is required to publish a rulemaking notice repealing the chapter.

If only a section, subsection, paragraph, or subparagraph, is removed from the rule, it is deleted, not repealed, and regular rulemaking procedures must be followed. The deleted text must be published in the Bulletin.

THE ADMINISTRATIVE PROCEDURE ACT

Title 67, Chapter 52, Idaho Code

Sections 67-5201 through 67-5292

The Administrative Procedure Act (APA) in relevant part, contains instructions related to rulemaking....

a. Definitions - Introductory Provisions:

I.C. Sections 67-5201 through 67-5207

These sections of Idaho Code created the Office of the Administrative Rules Coordinator and delimit the authority of the Rules Coordinator. They also establish the two official administrative rules publications: the Idaho Administrative Bulletin and the Idaho Administrative Code. These provisions set fees for the promulgation, publication, and dissemination of state agency administrative rules and establish the Administrative Code fund into which all fees are paid.

b. Rulemaking:

I.C. Sections 67-5220 through 67-5232

These sections provide the framework for agency rule promulgation and related responsibilities, public participation in rulemaking, incorporation by reference, interim legislative review of proposed rules, petition for adoption of rules, and declaratory rulings by agencies.

c. Legislative Review of Rules:

I. C. Section 67-5291

Provides for formal legislative review for final approval of agency rules by the standing germane committees of the Legislature and outlines how the Legislature must approve or reject rules.

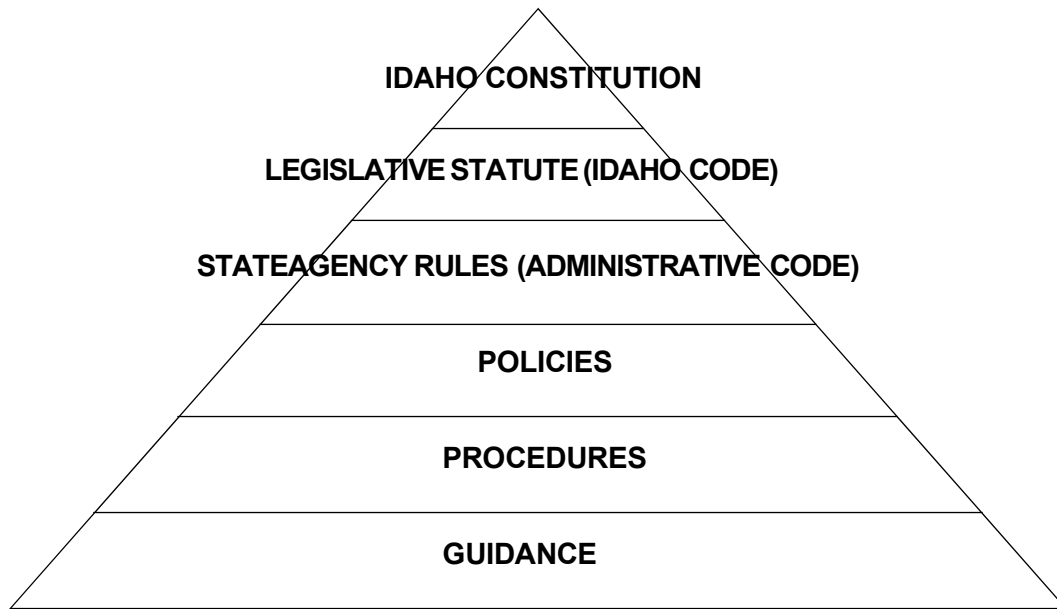
d. Ongoing Agency Review of Rules:

I.C. Section 67-5292

Each rule chapter that is in effect on July 1, 2026, shall be reviewed by the Legislature on a staggered, periodic schedule between July 1, 2026, and June 30, 2034, and on a similar schedule each eight (8) years thereafter. The review schedule shall be established by the Office of the Administrative Rules Coordinator, and posted on its website no later than January 1, 2026.

Prior to the review date for each rule chapter...the promulgating agency shall prepare a report for the Legislature that states whether the substantive content in the chapter is still necessary and the rationale for the determination. In addition, the agency shall report whether the content would be more appropriately integrated into Idaho Code as opposed to remaining in administrative rule. The agency shall consider the benefit of having all related requirements in a single location in Idaho code; frequency with which the content has been updated in the prior five years and anticipated updates; and the cost of publishing and maintaining the rule in the administrative code.

HIERARCHY OF STATE DOCUMENTS



In the above pyramid, each increasing level becomes smaller in size, yet greater in scope. The state Constitution creates the branches of government and establishes the legislative lawmaking authority. The laws create the agency and define the agency's authority to promulgate rules.

Idaho Constitution: Supreme law of the land; difficult to change; framework of the government.

Legislative Statute (Idaho Code): The legislative branch of government creates the uniform laws from which society must operate. Law usually contains: 1) a program the Legislature wants accomplished; 2) the executive branch agency it designates to carry out the program; and 3) guidelines for implementation.

Agency Rules (Administrative Code): The executive branch of government is broken into various agencies. Rulemaking is the lawmaking power of an executive agency, governed by the Administrative Procedures Act. Rules carry the force and effect of law and interpret, prescribe, or implement a law by filling in the gaps. Agencies are charged with implementing and enforcing laws that the Legislature passes. Rules made under the statutory authority are made to apply to all persons in a class, not to particular individuals, and must be applied equally.

Policy: Mission statement. A high-level plan embracing the general goals and conduct of an agency. It is an internal management tool used in the day-to-day operation of the agency that does not have the force and effect of law, however, can be binding on internal agency employees.

Procedure: Step-by-step implementation of policy. Does not carry the force and effect of law.

Guidance: The agency's interpretation of existing law. These documents exist to help the public learn how to comply with legal requirements, whether in statute or in rule. Does not carry the force and effect of law.

RULE PROMULGATION: STEP-BY-STEP PROCEDURES

STEP	PROCEDURE
1.	Inception — Decision to initiate rulemaking from agency, or ZBR or 8-year review is due.
2.	ARRF Submit — Agency prepares the Administrative Rules Request Form (ARRF) for submittal to the Division of Financial Management (DFM). <i>ZBR: No ARRF needed; see I.C. 67-5292</i>
3.	Agency Requests Word Doc — Agency requests official Word doc from the Office of the Administrative Rules Coordinator (OARC).
4.	ARRF Review — Both DFM and Governor's Office review, then approve or deny request. Agency must receive approval from both before filing a rulemaking with the OARC.
5.	Notice of Intent Prep — If approved, agency prepares a “Notice of Intent to Promulgate a Rule—Negotiated Rulemaking” and files it with the OARC.
6.	Notice of Intent Published — 1. Rulemaking docket number is assigned by OARC, and the docket is prepared for publication. 2. Notice is published by OARC in the Bulletin. 3. Agency posts to Townhall.idaho.gov
7.	Agency Meetings — Negotiated rulemaking meetings are held. Summary of unresolved issues relating to the draft rule must be made available to interested persons upon request and posted on the agency website and on Townhall.idaho.gov.
8.	Agency Packet Prep — Agency prepares Rulemaking Packet: ARRF tracking number; Notice (Proposed, Temporary, or Temporary/Proposed Rule); text in legislative format; cost/benefit analysis for any fees imposed or changed, and a synopsis of substantive differences from prior rule. Include any changes to Incorporations by Reference.
9.	Packet to DFM/ Gov’s Office — For review and approval of the proposed rule changes.
10.	Packet to OARC — OARC reviews packet for required information and formatting.
11.	OARC and Agency Proof Copy — Proof copy of the docket is sent by OARC to the agency for approval prior to publication.
12.	Agency Proof Copy to OARC — After reviewing the proof copy, the agency contacts OARC to approve or discuss any revisions.
13.	Proposed Rulemaking Published — By OARC in the Administrative Bulletin. Public comment period begins the date published (first Wednesday of each month). Agency must post a link to the proposed rulemaking notice on its website. OARC sends to LSO.

14. Public Hearings — Public hearings are required if the agency receives requests within the request period. If required to hold a hearing, the agency must schedule it and publish a Notice in the Bulletin prior to the hearing, publish in Townhall, on the agency’s website, and provide a virtual meeting link. The agency must immediately establish a rulemaking record subject to the Public Records Act.
15. Public Comment — A 21-day period to submit written comments begins on the Bulletin publication date. If a public hearing is scheduled <i>after</i> the written comment period was scheduled to end, the agency may choose to extend the comment period to coincide with that hearing.
16. Agency Reviews Comments — Agency may make changes, if warranted, based on comments received. Changes must be a logical outgrowth of the proposed rule.
17. Pending Rule Changes — Any changes are submitted to DFM and Governor’s Office for review and approval before adoption.
18. Pending Rule Adopted — Agency adopts rule, pending legislative review, and prepares “Notice of Rulemaking—Adoption of Pending Rule.” No rule text is published with the Notice unless changes are reflected in the pending rule. Any text changes must be published in legislative format.
19. Notice to OARC — Agency submits Notice and rule text.
20. OARC Review — OARC reviews, the pending rule docket is prepared for publication, and a proof copy sent to the agency for review.
21. Agency Review — Agency reviews the proof copy, makes any changes, and notifies OARC of final approval.
22. Docket Published — Pending rule docket is published in the Bulletin. The rule remains unenforceable until approved by the Legislature.
23. Rules Review Books — Upon Session convening, OARC submits the Rules Review Books (all pending, pending fee, and temporary rules submitted for extension) to the relevant germane committees of the Legislature.
24. Legislature Reviews — Agency presenters testify before germane committees on rules submitted for review.
25. Approved or Rejected — Approval or rejection of a pending rule, or any subpart of it, requires adoption of a Concurrent Resolution. If partially rejected, a “Notice of Final Rule” is prepared by OARC for publication in the Bulletin.
26. Sine Die Final Action — OARC publishes a “Notice of Final Legislative Action” in the first Bulletin after July 1. It lists all rulemakings by docket number and Concurrent Resolution, action taken and effective dates of the rules.
27. Rules Codified — Pending rules become final and effective on July 1 in the year approved, or the date specified in the Concurrent Resolution. Final rules are then codified and published in the Administrative Code.

ADMINISTRATIVE RULES CYCLE

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APRIL</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN --></u>		
LEGISLATIVE SESSION	RULES REVIEW														
RULES FINAL							July 1st								
CODE PUBLISHED							OARC								
NEW LAWS IN EFFECT							LSO								
NEGOTIATED RULEMAKING				INVOLVE STAKEHOLDERS											
PROPOSED RULE						FEEDBACK CONSIDERED									
PENDING RULE									ADOPTED BY AGENCY						
REVIEW BOOKS FINALIZED												OARC			
BOOKS TO LEGISLATURE													TO COMMITTEES		
LEGISLATIVE SESSION													RULES REVIEW		

STAGES OF RULEMAKING

1. ARRF

Prior to initiating rulemaking, the agency must complete an Administrative Rules Request Form (ARRF) from the Division of Financial Management (DFM). The ARRF is an online form that requires a password to access and download from the DFM website: <https://dfm.idaho.gov/forms/>.

Exception: ZBR. Those chapters are already approved and scheduled for review.

2. NEGOTIATED RULEMAKING

The agency seeks consensus with interested persons on the rule content through dialogue. Agencies are required to conduct negotiated rulemaking when feasible. The agency files a “Notice of Intent to Promulgate – Negotiated Rulemaking” for publication in the Administrative Bulletin, inviting interested persons to contact the agency to discuss the planned rule changes. The process is intended to result in the formulation of a proposed rule and initiation of formal rulemaking procedures.

3. PROPOSED RULE

The agency proposes to amend or repeal an existing rule or adopt a new rule. Prior to adoption, amendment, or repeal, the agency must publish a “Notice of Rulemaking – Proposed Rule” in the Bulletin. The notice must contain specific information including relevant state or federal statutory authority, a non-technical description of planned changes, associated costs, guidance on how to participate, and the text of the proposed rule in legislative format.

4. PENDING RULE

A pending rule has been adopted by an agency through formal rulemaking procedures and is subject to legislative review before it becomes final and enforceable. When published in the Bulletin, the “Notice of Rulemaking – Pending Rule” must include the reason for adopting the rule, the effective date, a description if it differs from the previously published proposed rule, and any fees being imposed or changed.

Agencies must republish the text of the pending rule whenever substantive changes are made to the proposed rule after publication. An agency may adopt a pending rule that varies in content from that originally proposed if the change is a logical outgrowth, and the public were reasonably notified.

5. FINAL RULE

A rule becomes final once adopted by an agency under rulemaking procedures, approved by the Legislature through concurrent resolution, and is in full force and effect.

6. EXCEPTION: TEMPORARY RULEMAKING

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

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) reducing a regulatory burden that would otherwise impact individuals or businesses.

If the rule meets one of the criteria, with written approval from the Governor’s Office the agency may adopt a temporary rule that becomes effective immediately, or upon a date specified, prior to legislative authorization and without public input. A temporary rule expires at the conclusion of the next regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

1. ARRF: The Administrative Rules Request Form

Prior to initiating rulemaking proceedings, the agency must complete an Administrative Rules Request Form (ARRF) from the Division of Financial Management (DFM). An agency cannot begin rulemaking without the approval of the Governor's Office and DFM. The ARRF provides the Governor's office and DFM with a brief synopsis of the need for the rulemaking, as well as an estimate of any costs related to the rule change.

The ARRF is an online form that requires a password to access and download from the DFM website. The agency may be asked to provide the draft text of the potential changes. If the agency has not yet drafted text when submitting the request form, they should follow any instruction from DFM and the Governor's Office. The agency will also be expected to submit a Prospective Analysis. Both forms can be found at: https://dfm.idaho.gov/state_agencies/forms/forms.html

Is It Feasible? Prior to initiating formal rulemaking procedures, an agency must determine if conducting negotiated rulemaking is feasible. If the agency determines it is not, it may proceed to formal rulemaking and explain in the Notice of Proposed Rulemaking why it was not feasible to conduct negotiated rulemaking. To determine feasibility, consider the following:

__ Does the rulemaking change or alter any private rights, or procedures that the public must adhere to?

__ Is the rulemaking being done to comply with a state or federal statute or court order? Is there a need for temporary rulemaking and if so, does it meet the criteria?

__ What is the nature of the change(s) being proposed? Is it a simple change?

__ Are those who will be affected by the rule changes easily identifiable?

__ Are those affected likely to reach consensus on the proposed changes?

Important: Any decision to skip negotiated rulemaking must be approved in writing by DFM.

2. NEGOTIATED RULEMAKING

What Is Negotiated Rulemaking?

Negotiated rulemaking provides an opportunity for all interested parties to discuss possible changes to the rule, and attempt to reach consensus on amendments under consideration that would result in a proposed rule promulgated by the agency. Negotiated rulemaking must be conducted by the agency with interested persons (unless it is a temporary rule, or a waiver has been granted by the Governor's Office and DFM).

Negotiated rulemaking is an informal process that precedes formal rulemaking. The agency has some leeway in how it conducts those meetings and is expected to facilitate participation by the greatest number of persons affected by the possible rule changes. The result may be that the agency does not move forward, and the rulemaking effectively stops. There are no time constraints on the agency to finish negotiations, or limit on the number of meetings that can be held when conducting negotiated rulemaking. The agency proceeds until it has formulated a proposed rule or chooses to end consideration. The publication of a proposed rule initiates formal rulemaking.

Rulemaking (whether to do it or not) may not be negotiable, but the language is always negotiable. The agency's determination of whether negotiated rulemaking is feasible is not subject to judicial review; however, it is subject to legislative scrutiny. The Legislature views the use of negotiated rulemaking as an important step in the formulation of proposed rules. The agency should be prepared to explain to the Legislature if negotiated rulemaking was not conducted and why.

The Notice of Intent To Promulgate a Rule (Negotiated Rulemaking)

An agency must publish a Notice of Intent to Promulgate a Rule in the Bulletin: The Idaho Administrative Bulletin is a compilation of all administrative rulemaking documents required by state law to be published. It is published monthly by the Division of Financial Management's Office of the Administrative Rules Coordinator. The notice is a public invitation from the agency to discuss possible changes to the rule.

The notice must provide the following:

- a brief description of the subject matter and purpose of the rule
- the statutory authority for the rulemaking, both state and federal
- the principal issues involved
- a reasonable amount of time to respond to the agency's invitation to participate
- an agency contact to whom comments and questions may be sent
- the agency web address where all related rulemaking postings can be accessed

Two Options When Publishing a Notice of Intent to Promulgate a Rule:

Scheduled Meetings: The agency schedules negotiated meetings and lists the dates, times, and locations for those meetings.

No Scheduled Meetings: There are no scheduled meetings. The notice instructs those interested to contact the agency if they want to take part in the negotiated process. Any materials related to the rulemaking must be posted on the agency website.

Format: An official rulemaking record **must** be prepared by the agency and include all information required in Sections 67-5220 and 67-5225, Idaho Code. Meeting(s) schedule **MUST** be posted on the agency website, to the Townhall IDAHO website, and may also be published in the Bulletin.

OTHER NEGOTIATED RULEMAKING REQUIREMENTS

Under Idaho Code 67-5220(3), the following is required for all agencies engaging in negotiated rulemaking:

- (a) Provide a reasonable period of time for interested persons to respond to the notice of intent to promulgate rules;*
- (b) Provide notice of meetings to interested persons who responded to the notice of intent to promulgate rules;*
- (c) Upon request, make available to persons attending the meetings all information that is considered by the agency in connection with the formulation of the proposed rule and that is not exempt from disclosure pursuant to chapter 1, title 74, Idaho Code;*
- (d) Consider the recommendations of interested persons concerning the subject of the proposed rule;*
- (e) Establish, maintain and timely update the negotiated rulemaking schedule, compile and a list of written comments and other documents and pertinent information, pertinent to the proposed rule and make that information available to persons attending the negotiated rulemaking meeting;*
- (f) Prepare a written summary of unresolved issues, key information considered, and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.*

The Rulemaking Record – I.C. 67-5225

Upon initiating rulemaking, the agency must immediately establish a rulemaking record.

This record must be maintained in the main office of the agency and available to the public for at least two years.

The rulemaking record is subject to the Public Records Act (Title 74, Chapter 1, Idaho Code). [See page 31]

3. PROPOSED RULE

A Proposed Rule is an outcome of negotiated rulemaking. It is the agency's first draft published in the bulletin. It is a formal, written proposal by the agency to adopt a new rule, or amend or repeal an existing rule, in accordance with the APA. All codified rules were first promulgated as proposed and pending rules and published in the Administrative Bulletin before they became final and enforceable (the exception are Temporary Rules.)

As stated in Section 67-5221, Idaho Code, prior to the adoption, amendment, or repeal of a rule the agency must publish a Notice of Rulemaking—Proposed Rule in the Bulletin. The notice must include the following information:

- (a) The specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking.*
- (b) A statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased.*
- (c) 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 when the pending rule will become effective; provided, however, that notwithstanding section 67-5231, Idaho Code, the absence, or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.*
- (d) The text of the proposed rule prepared in legislative format*
- (e) The location, date, and time of any public hearings the agency intends to hold on the proposed rule*
- (f) The way persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent.*
- (g) The way persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- (h) The deadline for public (written) comments on the proposed rule*
- (i) If negotiated rulemaking was not conducted, an explanation of the agency's determination that negotiated rulemaking was not feasible.*

The agency must make the Notice of Rulemaking—Proposed Rule accessible by posting it on their website and providing a link to the published Bulletin. All noticed meetings must also be posted to Townhall IDAHO at: <https://townhall.idaho.gov/>.

Filing a Proposed Rulemaking with the Rules Coordinator for Publication in the Bulletin

All proposed rulemaking materials must be filed electronically with the Rules Coordinator for publication in the Bulletin.

Fee Rules - Cost/Benefit Analysis

The agency must include a cost/benefit analysis that would impose or change a fee in the rule. This analysis must estimate the costs to the agency or state to implement the rule and any estimated costs to citizens or businesses in the private sector.

Negotiated Rulemaking

If the agency determined that negotiated rulemaking was not feasible, the Notice of Proposed Rulemaking must include a statement explaining why not. If negotiated rulemaking has been conducted, the notice need only reference that. A link to the Notice of Intent to Promulgate a Rule must be provided in the Notice of Proposed Rulemaking. (Section 67-5220(1), IC)

Incorporation by Reference

Declaration that the text of a referenced document is included in another document without reprinting the text of the cited document. It allows an agency to adopt a set of standards developed by a regulated industry. It carries the same force and effect of law. The Legislature may reject any material incorporated by reference in whole or in part. [See pages 28 and 29]

When adopting amendments to previously incorporated materials, a separate **written synopsis** of the substantive differences between the two versions must also be included. (See Section 67-5223(4), Idaho Code.)

Can a Proposed Rule Be Enforced?

A proposed rule is not enforceable. If the proposed rule is being promulgated in conjunction with a temporary rule, the agency assigns an effective date to the temporary rule only.

(See 5.Temporary Rule)

Vacating a Proposed Rulemaking

An agency may decide to stop formal rulemaking after a proposed rule has been published in the Bulletin, but before the rule has been adopted as a pending rule. To stop the rulemaking at this point, the agency must formally vacate the proposed rulemaking. A Notice of Vacation of Proposed Rulemaking must be published in the Bulletin. This formally ends the rulemaking process. If the agency decides to go forward with the promulgation of another proposed rule, a new rulemaking must be initiated.

Written Comments

The agency must **provide a comment period of not less than twenty-one (21) days for all proposed rulemakings**. The comment period begins the day the proposed rule is published in the Idaho Administrative Bulletin, which is the first Wednesday of each month. The comment period may exceed the required twenty-one (21) days but cannot be less than that.

The deadline for submission of written comments must be included in the Notice of Proposed Rulemaking, along with the agency contact information.

All written comments submitted within the specified time must be made part of the rulemaking record. The record must be maintained and made available to the public. All written comments must be considered by the agency prior to adoption of the pending rule. Consideration of a written comment does not mean that the comment will cause amendment to, or inclusion in, the pending rule.

All changes made to the rulemaking docket after the comment period must be justified by comments received through the rulemaking process. The promulgating agency may also comment on its own rulemaking.

PETITION FOR RULEMAKING

The public may petition an agency to change or repeal an existing rule or adopt a new rule.

Pursuant to Section 67-5222(1), Idaho Code:

(1) Prior to the adoption, amendment, or repeal of a rule, the agency shall afford all interested persons reasonable opportunity to submit data, views, and arguments, orally or in writing. The agency shall receive comments for not less than twenty-one (21) days after the date of publication of the notice of proposed rulemaking in the bulletin

MORATORIUM DURING LEGISLATIVE SESSION

An annual moratorium on all rulemaking begins at the end of December and remains in effect until the end of the legislative session (sine die). The moratorium affects all rulemaking activity. For exceptions, contact the DFM Bureau Chief, Regulatory and Legislative Affairs.

4. PENDING RULE

What Is a Pending Rule?

Section 67-5201(19), Idaho Code, defines a pending rule as a proposed rule that an agency has adopted under the formal rulemaking process but remains subject to legislative review, is not a final rule, and is not in effect.

Pending rules that are being adopted exactly as they were initially proposed will only publish as the Notice of Rulemaking—Adoption of Pending Rule. The proposed language will not be published again.

Agencies are required to republish affected text in a pending rule if substantive changes have been made after publication of the proposed rule. It is the discretion of the Rules Coordinator to determine how much of the pending rule must be republished.

If the agency wants a final effective date for the pending rule that precedes July 1, the concurrent resolution must state the different date and the rule cannot be enforced until adoption of the concurrent resolution. Upon adoption, the rule is then applied as of the date in the concurrent resolution.

When Fees Are Imposed

The notice must describe any fee imposed or increased by the adoption of the rule. The APA requires that an agency provide the Rules Coordinator with a written description of any pending rule, or portion of it, that imposes a new fee or increases an existing fee. The description must cite the statute that authorizes the agency to impose or change the fee. (See Section 67-5224(5), IC)

Correcting a Pending Rule Prior to Legislative Review

If an error is found in a pending rule that has published in the Bulletin, but the rule has not yet been reviewed by the Legislature, a Notice of Correction to Pending Rule will be published in the Bulletin. The corrected text of the pending rule will be submitted to the Legislature for review.

Publication of a Notice of Rulemaking–Adoption of Pending Rule (Section 67-5224)

The following information is required to be published in the Notice of Rulemaking–Adoption of Pending Rule in the Bulletin after an agency adopts a pending rule:

- a statement giving the reasons for adopting the rule
- a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes
- the date the pending rule will become final and effective (See Section 67-5224(5), I.C.), and a statement that the pending rule must be approved by concurrent resolution of the Legislature
- an identification of any portion of the rule imposing or increasing a fee or charge
- the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking
- 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 when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

Vacating a Pending Rule

An agency may decide to stop formal rulemaking after a pending rule has been published in the Bulletin, but before the rule has been approved by the Legislature and gone into effect on July 1. The agency must formally vacate the pending rule. A Notice of Vacation must be published in the Bulletin. This formally ends the rulemaking process. If the agency decides to go forward with the promulgation of another proposed rule, a new rulemaking must be initiated.

5. FINAL RULE

What Is a Final Rule?

A final rule is one that has been promulgated under regular rulemaking procedures in accordance with the APA and is in full force and effect. Final rules comprise most of the Administrative Code.

When Does a Pending Rule Become a Final Rule?

Pursuant to Section 67-5291(4) and (5), Idaho Code, no pending rule (whether fee or non-fee) can become a final rule unless approved by a concurrent resolution of the Legislature. Unless a different date is stated in the Concurrent Resolution, all pending rules go into effect on July 1 in the year the rule(s) were approved by the Legislature.

Making Corrections to Codified Rules

The Idaho Administrative Procedure Act gives the Rules Coordinator the authority to make non-substantive changes to codified rules without going through formal rulemaking procedures: Section 67-5202(2), Idaho Code. However, the ability is limited to fixing typographical and grammatical errors that, upon changing, does not alter the substance of the rule.

6. TEMPORARY RULE

A temporary rule is used to cover contingencies that require immediate action and remains in effect for a specific period. It can be immediately effective and enforceable upon its adoption prior to being reviewed or approved by the Legislature; or, on the date specified in the Notice of Rulemaking—Adoption of Temporary Rule published in the Administrative Bulletin. A temporary rule can **only** be adopted and made enforceable if it meets certain criteria stipulated in the APA and is approved for adoption by the Governor’s Office. The following is taken from the APA and outlines the criteria for adopting a temporary rule:

Pursuant to Section 67-5226(1), Idaho Code, a temporary rule can be adopted only if the Governor finds that:

- (a) protection of the public health, safety, or welfare; or*
- (b) compliance with deadlines in amendments to governing law or federal programs; or*
- (c) reduces a regulatory burden that would otherwise impact individuals or businesses;*

The Governor’s Office **alone** determines if the temporary rule is justified based on the information supplied in the ARRF. The ARRF must be submitted and approved before the temporary rule is submitted for publication in the Bulletin. The Notice of Adoption of Temporary Rule must incorporate the required findings and supporting reasons for adopting the temporary rule. A temporary rule is not subject to Section 67-5222, Idaho Code and does not provide for public participation in the rulemaking.

Publication of a Temporary Rule in the Bulletin

Pursuant to Section 67-5226(4), Idaho Code, a temporary rule must be published in the first available issue of the Bulletin after adoption. Failure to submit a temporary rule for publication in the first available Bulletin is a procedural violation of the APA. Violation may result in the rule being declared invalid if challenged.

A Temporary Rule Imposing a Fee

A temporary rule that imposes a fee or charge may be adopted by the agency **only if the Governor finds that the fee or charge is necessary to avoid immediate danger**. Failure to obtain approval from the Governor for fee rules makes the rule voidable and bars the agency from any further action.

All temporary rules adopted prior to the beginning of the legislative session expire at the end of the next regular session unless they are extended by concurrent resolution and continued in effect until the end of the next legislative session.

HOW LONG IS A TEMPORARY RULE EFFECTIVE?

Temporary rules are subject to legislative review. Temporary rules may be reviewed by the germane committees of the Legislature at any time, but must be affirmatively approved by concurrent resolution of the Legislature to remain in effect beyond the end of that legislative session. Temporary rules that do not expire by their own terms, or are not rejected by the Legislature, remain in effect until the end of the next regular session of the Legislature, (Idaho Code, 67- 5226(6)).

Pursuant to Sections 67-5226(3) and (6), Idaho Code:

*(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the Legislature **unless** the rule is approved by concurrent resolution, in which case the rule may remain in effect until the time specified in the resolution or until the rule has been replaced by a final rule that has become effective....*

*(1) Concurrently with the promulgation of a rule under this section, **or as soon as reasonably possible thereafter**, an agency shall commence the promulgation of a proposed rule in accordance with the rulemaking requirements of this chapter unless the temporary adopted by the agency will expire by its own terms or by operation of law before the proposed rule could become final.*

Temporary and Proposed Concurrent Rulemaking and Bulletin Publication

The APA mandates concurrent promulgation of a temporary rule and proposed rule when the text of the two rulemakings is the same. These two rulemaking actions are considered separate, legal rulemaking actions.

Rescission, Replacement, or Expiration of a Temporary Rule

An agency may rescind, replace with a new temp rule, or set an automatic expiration of a temporary rule that it has adopted, published in the Bulletin, and is enforcing. When a temporary rule is no longer needed, the agency may rescind the temporary rule.

A temporary rule that is promulgated concurrently with a proposed rule may be rescinded without affecting the proposed rule, if desired. A temporary rule that is rescinded or expires is replaced by previously codified rule, if there is one.

To rescind a temporary rule, a Notice of Rulemaking—Rescission of Temporary Rule must be published in the Bulletin.

LEGISLATIVE REVIEW

Pending rules are assigned to the relevant legislative germane committees by LSO. LSO notifies OARC who then compiles and publishes the legislative rules review books to the OARC website under each assigned committee. OARC: <https://adminrules.idaho.gov/>

LSO will also link the books on their website: <https://legislature.idaho.gov/sessioninfo/>

The review books will be available digitally upon convening a regular legislative session.

For ZBR changes, the review books contain two versions of each rule: one shows the strikethrough and underscore changes made by the agency. The other version is “clean:” so the reader can see the outcome if changes are accepted. For all other rulemakings, only the redlined version is included.

Each committee secretary is responsible for scheduling their assigned rules and publishing them in their daily agendas. LSO is responsible for ensuring the daily agendas have active links to the rule.

The Vice Chair presides over rules hearings. Agencies present their pending rules and interested parties are invited to testify. Most committees then vote. Some committees hear rules in one meeting then vote in their next regular meeting.

A committee can vote to approve the docket in its entirety or reject it in whole or in part. A committee cannot amend language in the docket that was not presented as a change in the pending rule published by OARC. They can only accept or reject, in whole or in part. If rejected, the committee must find it did not meet legislative intent and provide a finding of facts to support that. "The finding of facts must be specific as to why the rule does not meet the legislative intent of the enabling statute (the statute authorizing the agency to do rulemaking) by identifying how the rule is inconsistent with the authority granted by or the requirements of corresponding sections of Idaho Code."

They can vote to hold the rule for further review to reconsider at the call of the chair.

A rule might not be heard the day it was scheduled due to time. That rule is tabled, not held.

A committee can reconsider the rule independent of the rulemaking process, as a separate legislative action, after the vote to approve or reject the rule changes presented as pending. Black text in the strike and score copy is not subject to change during the rulemaking at hand.

Once a committee hears all assigned rules, the secretary will send a letter to the Speaker or Pro Tempore listing the titles and status of all rules that came before their committee.

The Senate and the House must both approve a rule in order for it to be passed.

If both bodies approve a rule, but one approves only in part, the joint germane committees that heard it must reach a decision before drafting a concurrent resolution to adopt the rule, making it final.

Concurrent resolutions are drafted by LSO, and voted on by both chambers. A rule becomes final on July 1, or earlier if the resolution stipulates an effective date that precedes July 1. The rule has completed the full cycle, is final, and will be codified. Codified rules will be published and posted on the website for the Office of the Administrative Rules Coordinator.

INCORPORATION BY REFERENCE (IBR)

Section 67-5229, Idaho Code, permits an agency to incorporate by reference certain materials without the republication of the text of these materials in the rule. As stated in the APA, whenever the republication of the text would be ". . .*unduly cumbersome, expensive, or otherwise inexpedient*. . .," the agency may adopt and incorporate by reference these materials into the rule and make them part of the rule.

Please thoroughly review the following statutory direction before proceeding with IBR:

<https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH52/SECT67-5229/>

What Can Be Incorporated by Reference?

Section 67-5229(1) states that all or any part of the following materials may be incorporated by reference:

- ☐ *A code, standard or rule adopted by an agency of the United States*
- ☐ *A code, standard or rule adopted by any nationally recognized organization or association*
- ☐ *A code or standard adopted by Idaho statute or authorized by Idaho statute for adoption by rule*
- ☐ *A final rule of a state agency; provided not adopting a temporary rule incorporating by reference a repealed rule, or rule being repealed, unless the rule providing for the incorporation has been reviewed and approved by the Legislature.*

When promulgating a rule that adopts external materials from an outside source using the incorporation by reference provision, the agency must:

- Include in the notice of proposed rulemaking a brief written statement explaining why the incorporation is needed
- Note where an electronic copy can be viewed, or provide an electronic link to the incorporated materials posted on the agency's website and included in the published rule
- If otherwise unavailable, note where copyrighted or other proprietary materials can be viewed or purchased
- Pursuant to Section 67-5223(4), Idaho Code, when adopting amendments to previously incorporated documents or materials, include a synopsis that identifies the substantive differences between the two versions or editions. This synopsis is filed as part of the proposed rule submission

In some cases, only specific parts of a code or standard are incorporated by reference. In other cases, the agency might slightly amend certain provisions. Any amendments must be promulgated.

How to Incorporate a Document by Reference

All documents incorporated by reference must be **date- and edition-specific and prohibits the incorporation of future materials.**

Formal rulemaking procedures must be followed. The materials incorporated must be maintained in their original state. If a new version becomes available that the agency wants to adopt, the agency **must** initiate rulemaking to incorporate the latest version. The date that revised documents were adopted, and the amended edition or volume number, must be included in the rule. Do not use open-ended incorporation statements that do not refer to a specific edition or source.

The following is an example of an incorporation by reference that **IS NOT ALLOWED**:

*“...this rule incorporates the 2015 edition of the Uniform Code **and all future editions, as amended.**”*

The Following is an Example of Correct IBR:

01. Incorporation by Reference. () a. 40 CFR Part 141, revised as of July 1, 2023 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subpart X); and 40 CFR Part 143, revised as of July 1, 2023. ()

Whenever a document is incorporated by reference, the rule must provide:

- 2) *the name, edition, or version number; and*
- 3) *the date on which the rule, standard or code was published, approved, or became effective.*

A document improperly incorporated by reference is invalid.

Accessing Documents Incorporated by Reference

The agency must link the documents on their website. Active links are placed into the rule, once the rule is enforceable. The agency is responsible for maintaining correct and live links and providing OARC with updated links. Updates or corrections to links can be made by the Rules Coordinator without a rulemaking.

Agencies must purchase or obtain one digital copy of any incorporated material and must, without charging a fee, make it "conspicuously available" on the agency's website unless prohibited by federal law or any purchase agreement. If IBR materials are unavailable electronically, the rule must note where the copyrighted or other proprietary materials can be viewed or purchased.

Legislative Review

Codes or standards authorized by Idaho statute to be incorporated by reference are subject to legislative review for approval. Amendments, or existing incorporated materials, may be rejected in the same manner that a non-incorporated pending or final rule is rejected.

PUBLIC HEARINGS

Negotiated Rulemaking Meeting vs Public Hearing

There is a difference between a negotiated rulemaking meeting and a public hearing.

Negotiated Rulemaking Meeting

Negotiated rulemaking is designed to meet the needs of the agency and its constituency to ensure the best possible outcome. It may take several meetings before a proposed rule is formulated, or the result may be that formal rulemaking is not initiated. These meetings happen prior to public hearings.

When feasible, the agency invites stakeholders to provide input on the changes under consideration. This is an interactive forum for dialogue, and the agency attempts to reach consensus on the rules being considered. The agency is negotiating with stakeholders, provisions of the rule that will regulate them. All input is considered in drafting the proposed rule.

Public Hearing

A public hearing takes place after the proposed rule has published in the Bulletin. It is an opportunity for interested persons to make present to the agency on the proposed rule. The agency has the discretion, and is encouraged, to interact with stakeholders as it sees fit; conducting the hearings in a manner that addresses stakeholder concerns while balancing agency needs.

4) Pursuant to Section 67-5222(2), Idaho Code:

*When promulgating substantive rules, the agency shall provide an opportunity for oral presentation if requested by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rulemaking in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later. An opportunity for oral presentation **need not be provided** when the agency has no discretion as to the substantive content of a proposed rule because the proposed rule is intended solely to comply:*

- (a) with a controlling judicial decision or court order; or*
- (b) with the provisions of a statute or federal rule that has been amended since the adoption of the agency rule.*

THE RULEMAKING RECORD

Upon initiating rulemaking, the agency must immediately establish a rulemaking record. This record must be maintained in the main office of the agency and available to the public. The rulemaking record is subject to the Public Records Act (Title 74, Chapter 1, Idaho Code).

Pursuant to Section 67-5225, Idaho Code, the rulemaking record must contain:

- (a) copies of all documents published in the Bulletin;
- (b) all written petitions, submissions, and comments received by the agency and the agency's response to those petitions, submissions, and comments;
- (c) all written materials considered by the agency in connection with the formulation, proposal, or adoption of the rule;
- (d) a record of any oral presentations, any transcriptions of oral presentations, and any memorandum prepared by a presiding officer summarizing the contents of the presentations; and
- (e) any other materials or documents prepared in conjunction with the rulemaking.

The rulemaking record must be maintained and available for public inspection for not less than two (2) years after the effective date of the rule.

RULE ORGANIZATION AND FORMATTING

THE COVER SHEET

The Cover Sheet contains useful information but is not part of the enforceable rule. It provides a quick overview of what the rule regulates, as well as agency contact information, legal citations, and other details.

LEGISLATIVE FORMAT

(~~Strike Through~~ and Underscore)

When amending an existing rule, edit the text using the **Track Changes** panel in the **Review** tab of Microsoft Word. Do not manually strike through and underscore changes to rules.

Example:

122. VISION SERVICE

The Department will pay for vision services and supplies in accordance with the following guidelines and limitations listed below. All eyeglass frames and lenses provided to Medicaid recipients and paid for by the Medicaid Program will be purchased from the supplier designated by the Department. ~~(10-1-91)~~(3-25-15)

REQUIRED SECTIONS WITHIN A CHAPTER

Two **MAJOR SECTIONS** are required at the beginning of each rule chapter. They are Legal Authority and Scope, organized as follows:

000. LEGAL AUTHORITY. Cite the agency's statutory rulemaking authority found in Idaho Code, as well as any other authority, including federal law or regulation.

001. SCOPE. A brief description of activities that the rule governs and enforces.

Other **MAJOR SECTIONS** are only included in the rule when applicable. They follow the format above and are numbered sequentially. These may include the following:

INCORPORATION BY REFERENCE. Any documents incorporated by reference into the rule must provide the date and edition of the materials, why it is necessary to incorporate them, and a web address where documents may be accessed.

DEFINITIONS. Identifies and defines terms that are specific to the rule and that are used throughout the rule.

SECTION AND SUBSECTION FORMATTING

A rule is broken down into subdivisions to provide cohesiveness and clarity. The rule is organized by section, subsection, paragraph, and subparagraph. A further breakdown is not recommended. Contact the Office of the Administrative Rules Coordinator if this situation arises and you are not sure how to proceed.

1) MAJOR SECTION. A major section or **section** is identified by a 3-digit number (000-999) that is left justified, has one tab before the section name or heading followed by a period at the end, and one hard return. The section number and name are in bold text and TITLE CAPS. A section name is required to give a brief description of the section. **Example of a Major Section:**

122. VISION SERVICES.

The Department will pay for vision services and supplies in accordance with the guidelines and limitations listed below. (7-1-06)

2) SUBSECTION. The first subdivision level is called a **subsection** and subdivides a major section. It consists of a 2-digit number and requires a **catchline** that gives a brief but accurate description of the subsection. The main words in the catchline are capitalized and the number and catchline are in bold text. **Example at the First Subdivision level:**

01) Recalculation of Client Participation. The client participation amount must be recalculated annually at redetermination or whenever a change in income becomes known to the Department. (7-1-06)

Subsections are only used when multiple subdivisions follow a major section or another subsection. If there is not a second subsection following the first subsection, make the text part of the major section and not its own individual subsection. This is true for all subsequent subdivisions.

3) PARAGRAPH. A **paragraph** further subdivides a subsection. Use lowercase alphabetic level (a., b., c.) followed by a period. A catchline should not be used here. In a long sequence where all alphabetic letters are used, double the characters (aa., bb., cc., etc.) and continue the sequence. **Example at the Second Subdivision level:**

a. The Department's payment for ambulance services is not to exceed usual and customary charges for normal services. (7-1-06)

4) SUBPARAGRAPH. A **subparagraph** is a lowercase roman numeral (romanette) level (i., ii., iii.). The subparagraph romanette is in plain text format, not bold text format.

Subdivisions past the subparagraph level (lower case roman numeral level) are allowed but should be discussed with the Rules Coordinator. Subsequent numbering repeats the basic alpha/numeric pattern using parentheses with no periods. For example: 010.01.a.i.(1)(a)

The terms Section, Subsection, Paragraph, and Subparagraph are always capitalized in a rule.

RESERVED SECTIONS

RESERVED sections are placeholders that allow additional section(s) to be added to the rule if needed without causing a major reorganization or renumbering of the rule chapter. Reserved sections can only be used at the **Major Section** or three-digit section level. Subdivisions below a major section level cannot be reserved for future use. A single section may be reserved, or multiple sequentially numbered sections may be reserved. **Example:**

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

RENUMBERING

When numbering or renumbering major sections, keep related subjects within the same numerical sequence and use reserved sections to break up unrelated subjects. Consider whether a long section can be broken up and renumbered at the same time the amendments to that section are being made. In most cases, if only renumbering with no changes to the text, the effective date is not changed.

BREAK IN CONTINUITY OF SECTIONS (Bulletin Only)

When promulgating amendments to a rule chapter, it is not necessary to publish the entire chapter in the Administrative Bulletin, only those sections with amendments. The entire Major Section containing the amendment is published. If multiple sections are amended, they are shown sequentially.

NUMBERS IN TEXT

General Numerical Text

When using numbers in the text of a rule, the number is spelled out, then followed by the written number in parenthesis: four (4) persons or fifteen (15) cats.

The expression of age can be ambiguous. The phrase “older than 18 years old” could mean the day after the 18th birthday or the day of the 19th birthday.

Correct: Applicants shall be twenty-one (21) years of age or older.

Incorrect: Applicants shall be more than 21 years old.

The term “old” and “of age” may be used interchangeably when referring to a person.

Always express money as in the following examples:

- five million dollars (\$5,000,000)
- twenty thousand dollars (\$20,000)
- Use decimals only to express cents or tax-related figures. Decimals are preferred to fractions, although sometimes a fraction is the only way to express a tax rate. Writing out large fractions is not necessary if writing the fraction becomes cumbersome and confusing:
- sales tax rate of five and eighty-five one-hundredths percent (5.85%)

Use commas in monetary amounts of four figures or more: (\$15,000) **NOT** (\$15000)

Do not use zeros after a decimal unless actual cents must be expressed: (\$5) **NOT** (\$5.00)

When listing monetary amounts in table format, however, if some of the amounts have decimals, use both decimals and zeroes for all amounts. It is not required to spell out the amount.

\$5.00
\$10.13
\$201.00
\$2,100.25

Time

Never use the phrase “o’clock.” Use a.m. and p.m. Use “12 noon” and “12 midnight. Do not use a colon to express minutes unless actual minutes are indicated.

- 9 a.m., not 9:00 a.m. but yes, 9:30 a.m.

REFERENCES TO IDAHO CODE, ADMINISTRATIVE CODE, AND OTHER LAWS

References to code and other laws are written using Arabic numerals:

Title 67, Chapter 52, Idaho Code (when citing to a specific chapter of the Idaho Code) Section 67-5201, Idaho Code (when citing to a specific section of the Idaho Code) IDAPA 44.01.01.000
28 U.S.C. Section 105(a) 42 CFR

ORDINAL NUMBERS - FIRST, SECOND, ETC.

When using the words “first,” “second,” and so on. It is not necessary to use the number.

Incorrect: first (1st)

Correct: first

SINGULAR VERB TO EXPRESS DOLLARS

References to dollars should be used with a singular verb.

Incorrect: \$50,000 are appropriated to this division.

Correct: Fifty thousand dollars (\$50,000) is appropriated to this division.

FORMULAS

Mathematical, scientific, and chemical, formulas should be described in text to avoid the risk of a corrupted formula being published. Formulas can become corrupted if they include special symbols, brackets, or underlining.

If formulas are necessary, it is possible to use symbols common to all systems (parentheses, slashes, hyphens, asterisks, and text) and not other special symbols (brackets, braces, or underlining). Both of the following are acceptable:

$$\frac{175(\text{Grams contained U-235})}{350} + \frac{50(\text{Grams U-233})}{200} + \frac{50(\text{Grams Pu})}{200} > 1$$

OR: (175(Grams contained U-235)/350) + (50(Grams U-233)/200) + (50(Grams Pu)/200 greater than 1

Special symbols may be lost when text is transferred between computer programs. If approved by the Coordinator, a digital image of the formula may be submitted and placed into the rule.

CITATIONS TO OTHER RULES OR CODES

When citing another chapter of rules, use the IDAPA, Title, and Chapter number; then include the name of the rules.

Example: IDAPA 13.04.01, “Rules Governing Licensing....

When citing a section, subsection, paragraph, or subparagraph, use the IDAPA, Title, Chapter, then include the name of the rules, and section or subsection number. A period separates each number.

Example: IDAPA 13.04.01, Rules Governing Licensing, Section 100....

In most cases, you will not cite further than a section number. Subsection, paragraph, and subparagraph numbers are subject to change. If you do cite those, then the subdivision number is amended and you must amend the rule to change the citation.

When citing sections, subsections, paragraphs, or subparagraphs within the same chapter of rules , it is not necessary to use the IDAPA, Title, and Chapter.

Example:

Section 100

Subsection 100.01 Paragraph 100.01.a.

Subparagraph 100.01.a.i.

Notice that a period is used when the citation ends in an alphabetic character (100.01.a. or 100.01.a.i.). This ensures that the character will be separated from the text that follows. A period is not required if the citation ends with a number (100.01). To further clarify an internal citation, the rule writer may use the phrase of these rules.

Example: Paragraph 100.01.a. of these rules

USEFUL WEBSITES

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

<https://adminrules.idaho.gov>

RULEMAKING NOTICE TEMPLATES AND FORMS

https://adminrules.idaho.gov/rulemaking_templates/index.html

DFM'S ADMINISTRATIVE RULES REQUEST FORM (ARRF)

<https://dfm.idaho.gov/forms/>

DIVISION OF FINANCIAL MANAGEMENT (DFM)

<https://dfm.idaho.gov/>

IDAHO ADMINISTRATIVE PROCEDURE ACT

Title 67, Chapter 52, Idaho Code

<https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH52>

IDAHO CODE

<https://legislature.idaho.gov/statutesrules/idstat/>

IDAHO STATE LEGISLATURE

www.legislature.idaho.gov

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