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**IDAPA 44
TITLE 01
CHAPTER 01**

IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

000. LEGAL AUTHORITY.

In accordance with Section 67-5206(1), Idaho Code, the Administrative Rules Coordinator shall promulgate rules implementing the provisions of Sections 67-5203, 67-5204, and 67-5205, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator," IDAPA 44, Title 01, Chapter 01. These rules constitute the minimum style, format and numbering requirements for administrative rules in Idaho. (7-1-97)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the Administrative Rules Coordinator, 650 West State Street -- Room 100, P.O. Box 83720, Boise, Idaho, 83720-0306. (3-30-01)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (7-1-93)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (3-30-01)

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. (7-1-93)

006. SEVERABILITY.

The sections and subsections of 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)

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

The principal place of business of the Office of Administrative Rules is in Boise, Idaho. The office is located at 650 W. State Street, Room 100, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Office of Administrative Rules, P.O. Box 83720, Boise, Idaho 83720-0306. The telephone of the office is (208) 332-1820. The facsimile number of the office is (208) 334-2395. (3-30-01)

008. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (3-30-01)

009. (RESERVED).

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 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 established in Section 67-5203, Idaho Code. (7-1-93)
- 06. Catchline.** A short description of the section or subsection used to introduce 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 established in Title 67, Chapter 52, Idaho Code. (7-1-93)
- 09. Coordinator.** The office of the Administrative Rules Coordinator, as created 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 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 scheme denotes a distinct agency code, a title code, a chapter code, and section, subsection, paragraph, and subparagraph numbering as appropriate. (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 scheme. (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 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 in accordance with Title 67, Chapter 52, Idaho Code, and is the only legally enforceable text of such document. (7-1-93)
- 17. Page.** One (1) page is one (1) impression side of the official text published in the Code or Bulletin. (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 Procedures 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. (7-1-93)

21. Rule Drafter. 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 adopt, amend, or repeal a rule. (7-1-93)

23. Section, Subsection, Paragraph, and Subparagraph. Section, subsection, paragraph, and subparagraph are divisions that breakdown the text of 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 Office of Administrative Rules. The text of a rule is subdivided in the following format: (3-30-01)

a. Section. This will include all text that appears at the main three (3) digit level. As an example, this text is part of the larger main Section "010." The entire section is cited as Section 010. (3-30-01)

b. Subsection. This is the further breakdown of a main section and will use a 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 subsection and will use a lower case alphabetic code. 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 paragraph and will use a lower case roman numeral code. As an example, a further breakdown of this paragraph 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)

011. -- 049. (RESERVED).

050. ADMINISTRATIVE CODE ACCOUNT.

All moneys received by the coordinator from APA-related products or services shall be deposited in the administrative code account as provided in Section 67-5205(4), Idaho Code. (7-1-97)

051. AGENCY PAYMENT FOR RULEMAKING.

The coordinator is authorized to allocate costs of publication and distribution to each participating agency on a per page basis. (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)

02. Cost to Agencies for Code Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Code billed to the respective agency shall not exceed fifty-six dollars (\$56) for each page of the Code. The fee shall be calculated 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 shall coincide with the annual publication of the Code and each agency shall promptly pay into the Administrative Code account such costs. (3-20-04)

03. Cost to Agencies for Bulletin Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Bulletin billed to the respective agency shall not exceed sixty-one dollars (\$61) for each page per publication event. This fee shall be calculated 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 be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs. (3-20-04)

052. COSTS OF PUBLICATIONS.

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 shall not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page. (7-1-97)

02. Cost of Certified Rules. Certified rules shall be provided without charge and shall 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)

03. Cost of the Administrative Bulletin. The prices to be charged for the Bulletin in the form of an annual subscription shall not exceed four hundred dollars (\$400) per year. The price for individual, monthly issues, which are subject to availability, shall not exceed the larger of forty dollars (\$40) per volume or twenty cents (\$.20) per page, plus sales tax, if applicable. (3-16-04)

04. Cost of the Administrative Code. The prices to be charged for the Administrative Code in the form of an annual subscription shall 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 shall not exceed seventy-five dollars (\$75). (3-16-04)

05. Free Distribution of Publications. In accordance with Section 67-5205(2), Idaho Code, the coordinator shall distribute copies free of charge as follows: (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, Albertson College Library, Ricks College Library, Northwest Nazarene College 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. REVIEW AND SUBMISSION OF AGENCY RULES.

The coordinator shall prescribe a uniform style, form, and numbering system which shall apply to all rules adopted by all Idaho agencies. The coordinator shall review all submitted rules for style, format, and numbering, and may return a rule that is not in the proper style, form, or number. (7-1-93)

01. Submission of Rules. All agencies shall submit a copy of their respective rules for publication in the Bulletin, certified by the agency director or designee, in the following formats: (6-7-94)

a. All submitted rules shall 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 submitted rules shall 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 shall be obtained from the most current document available from the coordinator. (7-1-97)

02. Submitted Rules. All submitted rules shall 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 shall 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 shall include three (3) distinct elements: (7-1-97)

a. Consistency denotes standardized arrangement of specific organizational division of text as well as language structures. Rule text shall 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 shall 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 shall be required for all rules adopted in accordance with the APA. All rules shall incorporate consistent organizational structure and content which will allow the coordinator to consistently index and reference all rules. Rules not formatted as described in this chapter shall not be inserted in the administrative code and shall 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 shall include the numbering scheme provided in this chapter followed by the catchline capitalized. (7-1-97)

b. The first required section of each rule chapter, the “000” section, shall be entitled “LEGAL AUTHORITY.” This section shall include all statutory authorities granted or implied which allow rulemaking authority to the agency as set forth Section 67-5231(1), Idaho Code. (7-1-93)

c. The second required section of each rule chapter, the “001” section, shall be entitled “TITLE AND SCOPE.” This section shall include a precise description of the legal citation of the chapter. Also, this section shall include a brief descriptive summary of the scope of the rule. (7-1-93)

d. The third required section of each rule chapter, the “002” section, shall be entitled “WRITTEN INTERPRETATIONS.” This section shall indicate if the agency has or relies on any written interpretive statements of the rule chapter in accordance with Section 67-5201(19)(b)(iv), Idaho Code. (3-30-01)

e. The fourth required section of each rule chapter, the “003” section, shall be entitled “ADMINISTRATIVE APPEALS.” This section is used to 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, shall be entitled “INCORPORATION BY REFERENCE.” This section is used to 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, shall 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, shall be entitled “PUBLIC RECORDS ACT COMPLIANCE” and shall 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, shall 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 shall 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. (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 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 shall be 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 shall 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 shall 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 shall establish a uniform numbering system applicable to rules adopted by all agencies. (7-1-93)

01. IDAPA Numbering. The uniform numbering system is known as the “IDAPA” system. For complete citation, rule numbering is preceded with the term “IDAPA,” followed by a two (2) numerical digit agency code followed by a period, a two (2) numerical digit division or title code followed by a period, and a two (2) numerical digit program or chapter code. For example, this chapter is numbered as follows: IDAPA 44.01.01. (3-30-01)

02. Internal Numbering. All chapters of agency rules consist of major sections identified by three (3) numerical digits beginning with “000” and ending with “999.” (7-1-93)

03. Sublevels. Three (3) sublevels shall be allowed following the major section code. (3-30-01)

a. The first sublevel, called a Subsection, shall be a two (2) digit numeric code, beginning with “01.” (3-30-01)

b. The second sublevel, called a Paragraph, shall be a single digit alphabetic code beginning with “a.” and ending with “z.” On a case-by-case basis, the coordinator may allow additional characters for expansion of this sublevel, using a double digit alphabetic code beginning with “aa.” and ending with “zz.” (3-30-01)

c. The third sublevel, 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 sublevels 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 provide a thorough notation of the identity of the text referenced. A citation to this section is “Paragraph 102.04.a.” Internal references may also utilize the complete legal citation using the complete IDAPA numbering system. A citation to this section is “IDAPA 44.01.01.102.04.a.” (3-30-01)

b. External Reference/Citation. References outside the chapter shall identify the complete legal citation using the IDAPA numbering system and shall 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 follow the provisions of Section 67-5229, Idaho Code, regarding incorporation by reference. (7-1-93)

103. -- 599. (RESERVED).

600. IDAHO ADMINISTRATIVE BULLETIN.

The coordinator shall receive all documents required in the APA to be published in the bulletin. (7-1-93)

01. Information. The bulletin shall 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 contain a table of contents. (7-1-93)

03. Cumulative Index. A cumulative index shall 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 file documents designated for publication in the bulletin with the Office of Administrative Rules. Documents must be submitted no later than 5:00 p.m. on the filing date which 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 Administrative Rules. (7-1-99)

01. Time. The documents must be submitted no later than 5:00 p.m. on the filing date as published in the "Bulletin Publication Schedule" in the preface of the Idaho Administrative Bulletin. (7-1-99)

02. Date of Submission. Documents shall 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.

The coordinator shall publish a compilation of all final agency rules in the code. No negotiated, proposed, or pending rules shall be included 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, shall be included in the Administrative Code. (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, shall be published in the administrative code. Other documents required for publication in the administrative code shall be received by the coordinator or the Office of Administrative Rules no later than June 1 of each year. (7-1-99)

702. -- 799. (RESERVED).

800. UNIFORM INDEXING SYSTEM FOR AGENCY ORDERS.

The coordinator shall establish a uniform indexing system for agency orders. All agencies shall code each order using the following: (7-1-93)

01. Numbering. A two (2) digit numeric code representing the agency followed by a sequential number assigned by the agency shall be placed on the agency order. (7-1-93)

02. Filing. Each such order shall be filed with the main and regional offices of the agency including an index. (7-1-93)

03. Index. Each agency shall maintain a complete index of their orders in column format, which includes: (7-1-93)

a. The agency name, address, phone number, and contact person as a heading to the document; (7-1-93)

b. The date of the order; (7-1-93)

c. The order number as set forth in Section 800.01; and (7-1-93)

d. A short description of the order. (7-1-93)

04. Updating the Index. The listing shall be updated by the agency no later than January 1 of each year. (7-1-93)

801. -- 999. (RESERVED).

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