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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 administrative rules in Idaho, the terms and references used in the masculine include the feminine and vice versa, as appropriate. (4-7-11)

006. SEVERABILITY.

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. (4-7-11)

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

The principal place of business of the Office of the Administrative Rules Coordinator 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) 332-1896. (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. 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 website at <http://adminrules.idaho.gov/>. (4-7-11)

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. (4-7-11)
- 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 used in the first subdivision level of a rule that introduces a block of text. (4-7-11)
- 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 established in Section 67-5202, Idaho Code. (4-7-11)
- 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.** The acronym for "Idaho Administrative Procedure Act" that is used with a numbering schematic that uniquely identifies all administrative rules promulgated in accordance with the Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code). The numbering schematic designates a distinct agency code, title code, and chapter code 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. (4-7-11)
- 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 schematic used to identify and subdivide the administrative rules as set forth in this chapter. (4-7-11)
- 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, that is the only legally enforceable text of such document. (4-7-11)
- 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) side of an electronic document that if printed would be eight and one-half (8 1/2) inches wide by eleven (11) inches long. (4-7-11)

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. (4-7-11)

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. (4-7-11)

21. Rule Writer. A person who creates, modifies, or proposes change to the administrative rules of the state of Idaho. (4-7-11)

22. Rulemaking. The process for formulation, adoption, amendment, or repeal a rule. (4-7-11)

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. The text of a rule is subdivided in the following format: (4-7-11)

a. Section. A main section includes all text that appears at the 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. (4-7-11)

b. Subsection. This is the first subdivision of a main section and uses a two-digit numeric code. As an example, this subsection is "23" and is cited as Subsection 010.23. (4-7-11)

c. Paragraph. A paragraph subdivides a subsection and 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. (4-7-11)

d. Subparagraph. A subparagraph subdivides a paragraph and 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. (4-7-11)

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, PUBLICATION, AND DISTRIBUTION.

Pursuant to Section 67-5205(4), Idaho Code, the coordinator is authorized to allocate the costs 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. (4-7-11)

01. Cost to Agencies for Code Publication. The fee charged for rules that are electronically published in the Code may not exceed fifty-six dollars (\$56) per page. The fee 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. (4-7-11)

02. Cost to Agencies for Bulletin Publication. The fee charged for rules that are electronically published in the Bulletin may not exceed sixty-one dollars (\$61) per page per publication event. This fee 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 will be made monthly by the coordinator, and each participating agency must promptly pay into the Administrative Code Account such allocated costs. (4-7-11)

052. PUBLICATIONS - SUBSCRIPTION RATES AND FREE DISTRIBUTION.

Pursuant to Section 67-5205(2), Idaho Code, the coordinator is authorized to charge for all APA-related publications. (4-7-11)

01. 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. (4-7-11)

02. Subscription Rate for the Administrative Bulletin. 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. (4-7-11)

03. Subscription Rate for the Administrative Code. 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. (4-7-11)

04. Free Distribution of Publications. In accordance with Section 67-5205(2), Idaho Code, the coordinator will distribute the Code on electronic media free of charge to the repositories listed in 67-5205(2), Idaho Code. (4-7-11)

053. -- 099. (RESERVED)

100. FILING AND REVIEW 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 state agencies. The coordinator will review all rules filed for publication for style, format, and numbering, and may return a rule that is not in the proper style, form, or number. (4-7-11)

02. Agency Rule Filing. All agencies must 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 a format prescribed by the coordinator. (4-7-11)

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”) is entitled “Legal Authority.” This section must include all statutory authority granted or implied to the agency, both state and federal, sanctioning rulemaking as set forth Section 67-5231(1), Idaho Code. (4-7-11)

c. The second required section of each rule chapter (“001”) is entitled “Title And Scope.” This section must include a precise description of the legal citation of the chapter. Also, this section must include a brief descriptive summary of the scope of the rule. (4-7-11)

d. The third required section of each rule chapter (“002”) is entitled “Written Interpretations.” This section must indicate if the agency has or relies on any written interpretive statements, 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. (4-7-11)

e. The fourth required section of each rule chapter (“003”) is entitled “Administrative Appeals.” This section must describe any appeal or hearing rights for affected individuals relating to the programs or services described in the rule chapter. (4-7-11)

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)

04. Legislative Format. When modifying rule text, all new text that is being added is underscored and all existing text that is being deleted is overstruck. (4-7-11)

a. In the case of amendment to a current rule, the desired amendments to text are made using legislative format. The effective date is overstruck followed by parentheses surrounding eight (8) underscored spaces, flushed right. (4-7-11)

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 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 two-digit numerical program or chapter code. For example, this chapter is numbered as follows: IDAPA 44.01.01. (4-7-11)

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." (4-7-11)

03. Subdivision Numbers. Three (3) sublevels, which further subdivide the chapter, are allowed following the major section code. (4-7-11)

a. The first level subdivision, called a Subsection, consists of a two-digit numeric code, beginning with "01." and, if needed, may go to three digits, i.e. "100." (4-7-11)

b. The second level subdivision, called a Paragraph, consists of a single-digit alphabetic code followed by a period beginning with the letter "a." and ending with "z." For expansion of this sublevel, a double-digit alphabetic code beginning with "aa." and ending with "zz." may be used. (4-7-11)

c. The third level subdivision, called a Subparagraph, shall be a lower case roman numeral code, beginning with "i." (4-7-11)

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. (4-7-11)

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 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 paragraph is “IDAPA 44.01.01.102.04.a.” (4-7-11)

b. External Reference/Citation. References outside the chapter must identify the complete legal citation using the IDAPA numbering system and must include the name of the agency, the name of the chapter being referenced and the complete legal citation of the chapter being referenced. (4-7-11)

c. External referencing of documents other than Idaho administrative rules must follow the provisions of Section 67-5229, Idaho Code, regarding incorporation by reference. (4-7-11)

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. (4-7-11)

104. -- 599. (RESERVED)

600. IDAHO ADMINISTRATIVE BULLETIN.

The coordinator receives all documents required by the APA to be published in the Bulletin. (4-7-11)

01. Information. The Bulletin 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. (4-7-11)

02. Table of Contents. Each issue of the Bulletin must contain a table of contents. (4-7-11)

03. Cumulative Index. A cumulative index must be published at least every three (3) months. (4-7-11)

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 must file all documents designated for publication in the Bulletin with the coordinator. All documents must be submitted no later than 5 p.m. on the closing date for agency filing as listed in the “Bulletin Publication Schedule” in the preface of the 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. (4-7-11)

602. -- 699. (RESERVED)

700. IDAHO ADMINISTRATIVE CODE.

Pursuant to Section 67-5204, Idaho Code, the coordinator will annually publish a 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 are published in the Code. Temporary rules that meet the requirements of Section 67-5226, Idaho Code, are published in the Code. (4-7-11)

701. -- 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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