IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

*The Bulletin is cited by year and issue number. For example, Bulletin **02-1** refers to the first Bulletin issued in calendar year **2002**; Bulletin **03-1** refers to the first Bulletin issued in calendar year **2003**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 02-**1** refers to January 2002; Volume No. 03-**2** refers to February 2003; and so forth. Example: The Bulletin published in January of 2003 is cited as Volume **03-1**. The December 2002 Bulletin is cited as Volume **02-12**.*

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative RuleMaking**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific 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) the text of the proposed rule prepared in legislative format;

d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;

e) the manner in which 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;

f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and

g) the deadline for public (written) comments on the proposed rule.

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

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) conferring a benefit;

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law required that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it become a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:

a) a statement giving the reasons for adopting the rule;

b) 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;

c) the date the pending rule will become final and effective;

d) an identification of any portion of the rule imposing or increasing a fee or charge.

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-00306, telephone (208) 332-1820.

The Idaho Administrative Bulletin *is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.*

The Idaho Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.*

Individual Rule Chapters *and* ***Individual RuleMaking Dockets****, are specific portions of the Bulletin and Administrative Code produced on demand.*

Internet Access *- The Administrative Code and Administrative Bulletin are available on the Internet at the following address:*

http://www2.state.id.us/adm/adminrules/

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the ***Idaho Administrative Bulletin*** *are organized by a numbering system. Each state agency has a two-digit identification code number known as the* ***"IDAPA"*** *number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:*

IDAPA 38.07.01.200.02.c.ii.

"IDAPA" *refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.*

"IDAPA 38" *refers to the Idaho Department of Administration*

"05." *refers to Title* ***05****, which is the Department of Administrations's Division of Purchasing*

"01." *refers to Chapter* ***01*** *of Title 05, "Rules of the Division of Purchasing"*

"200." *refers to Major Section* ***200****, "Content of the Invitation to Bid"*

"02." *refers to Subsection 200.****02****.*

*"****c.****" refers to Subsection 200.02.****c****.*

"ii." *refers to Subsection 200.02.c.****ii****.*

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0401). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-0401"

*"**38-**" denotes the agency's **IDAPA** number; in this case the Department of Administration.*

*"**0501-**" refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE **05**), Rules of the Division of Purchasing (Chapter **01**).*

*"**0401**" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2004.*

*Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:*

"(BREAK IN CONTINUITY OF SECTIONS)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

*"**...as found in Section 201 of this rule."** OR **"...in accordance with Subsection 201.06.c. of this rule."***

The citation may also include the IDAPA, Title, or Chapter number, as follows"

"...in accordance with IDAPA 38.05.01.201..."

***"38"** denotes the IDAPA number of the agency.*

***"05"** denotes the TITLE number of the rule.*

***"01"** denotes the Chapter number of the rule.*

*: **"201"** references the main Section number of the rule that the citation refers to.*

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.041, "Rules Governing Capitol Mall Parking."

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

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04-1	January, 2004	***November 19, 2003**	January 7, 2004	January 28, 2004
04-2	February, 2004	January 7, 2004	February 4, 2004	February 25, 2004
04-3	March, 2004	February 4, 2004	March 3, 2004	March 24, 2004
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04-10	October, 2004	****August 25, 2004**	October 6, 2004	October 27, 2004
04-11	November, 2004	October 6, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	November 3, 2004	December 1, 2004	December 22, 2004

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2005

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05-1	January, 2005	***November 17, 2004**	January 5, 2005	January 26, 2005
05-2	February, 2005	December 31, 2004	February 2, 2005	February 23, 2005
05-3	March, 2005	February 4, 2005	March 2, 2005	March 23, 2005
05-4	April, 2005	March 4, 2005	April 6, 2005	April 27, 2005
05-5	May, 2005	April 1, 2005	May 4, 2005	May 25, 2005
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05-11	November, 2005	September 30, 2005	November 2, 2005	November 23, 2005
05-12	December, 2005	October 28, 2005	December 7, 2005	December 28, 2004

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rule to be reviewed by the legislature.***

***** Last day to submit proposed rule in order to complete rulemaking for review by legislature.***

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IDAPA 01 - BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-204(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 20 through 23.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

DATED this 4th day of November, 2004.

Barbara R. Porter, Executive Director
Idaho State Board of Accountancy
1109 Main Street, Owyhee Plaza Suite 470
PO Box 83720
Boise, Idaho 83720-0002
Phone: 208-334-2490
Fax: 208-334-2615
E-mail: bporter@boa.state.id.us

IDAPA 01, TITLE 01, CHAPTER 01

IDAHO ACCOUNTANCY RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 20 and 23.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM

DOCKET NO. 02-0104-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-112, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule clarified the requirements for certain products to participate in the voluntary Idaho Preferred™ promotion program. The changes were for wine, honey, honey-related products, nursery products and beef products. These changes had been requested by industry.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, volume 04-10, pages 24 and 25.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Johnson, (208) 332-8533.

DATED this 28th day of October, 2004.

Patrick A. Takasugi
Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712
Phone: 208-332-8500
Fax: 208-334-2170

IDAPA 02, TITLE 01, CHAPTER 04

RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 24 and 25.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.06 - RULES GOVERNING REQUIREMENTS FOR LICENSED DAIRY PLANTS

DOCKET NO. 02-0406-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule removed the "as amended" language from the 1986 rule and adopt the June 17, 2002, USDA/AMS Milk for Manufacturing Purposes and its Production and Processing, Subpart E. "Requirements for Licensed Dairy Plants".

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 32 and 33.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 06

RULES GOVERNING REQUIREMENTS FOR LICENSED DAIRY PLANTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 32 and 33.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.07 - RULES GOVERNING GRADE A CONDENSED/DRY MILK AND WHEY PRODUCTS

DOCKET NO. 02-0407-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule was to repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 34.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 07

RULES GOVERNING GRADE A CONDENSED/DRY MILK AND WHEY PRODUCTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, page 34.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

DOCKET NO. 02-0408-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule was to adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 35 and 36.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 08

RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 35 and 36.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.09 - RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS

DOCKET NO. 02-0409-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule removed the "as amended" language and adopts by reference the 2003 Revision of "Methods of Making Sanitation Ratings of Milk Shippers".

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 37 and 38.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 09

RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 37 and 38.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02- DEPARTMENT OF AGRICULTURE

02.04.10 - RULES GOVERNING THE COOPERATIVE STATE PUBLIC HEALTH SERVICES, FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

DOCKET NO. 02-0410-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule removed the “as amended” language and adopts by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, Food and Drug Administration Program for Certification of Interstate Milk Shippers”.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 39 through 41.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 10

RULES GOVERNING THE COOPERATIVE STATE PUBLIC HEALTH SERVICES, FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 39 through 41.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.12 - RULES GOVERNING STANDARDS FOR THE FABRICATION OF SINGLE-SERVICE CONTAINERS AND CLOSURES FOR MILK AND MILK PRODUCTS

DOCKET NO. 02-0412-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule was to repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 42.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 12

RULES GOVERNING STANDARDS FOR THE FABRICATION OF SINGLE-SERVICE CONTAINERS AND CLOSURES FOR MILK AND MILK PRODUCTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, page 42.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.01 - RULES GOVERNING THE PURE SEED LAW

DOCKET NO. 02-0601-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-418, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule changed Subsection 500.03 to add an administrative fee of $2.00 per test to cover the costs associated with installing and maintaining a new computer program that would allow companies to view and obtain official test results over the Internet. It added a new Subsection to Section 600.03 to allow for an exemption from an Idaho Seed Dealer's License for a seed dealer who sells, offers for sale, exposes for sale or delivers seed only in packages of less than eight (8) ounces. The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 40 through 45.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-418, Idaho Code. The change will allow an administrative fee of $2.00 per test to cover the costs associated with installing and running the new software changes. Once these initial costs of the system have been recovered, the fee will be reduced to a maintenance level.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator at (208) 332-8620; Dick Lawson, Lab Manager at (208) 332-8630 or George Robinson, Bureau Chief at (208) 332-8593.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 01

RULES GOVERNING THE PURE SEED LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 40 through 45.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2724, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule incorporated by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Official Publication of AAFCO, where those terms and ingredient definitions, and policy statements do not conflict with feed terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The 13th edition of the Merck Index, as published in 2001, was also incorporated by reference into the rule. Sections required by the Office of Administrative Rules, such as, Legal Authority, Title and Scope, Definitions, and Office Hours, were also added.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 60 through 62.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 02

RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 60 through 62.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2724, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule adopted the 2005 edition of The Official Publication of the Association of American Feed Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of animal feed products. It provides consistency between the states in the registration of animal feed products.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 63 and 64.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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Boise, Idaho 83701
Phone: (208) 332-8503
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IDAPA 02, TITLE 06, CHAPTER 02

RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 63 and 64.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.05 - RULES GOVERNING DISEASE OF HOPS (*HUMULUS LAPULUS)*

DOCKET NO. 02-0605-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule addressed a request that was made by the Idaho Hop Commission to remove Boundary County from IDAPA 02.06.05 Section 100. Control Area for the purpose of allowing imported hops planting material into Boundary County without the requirement for a two-year evaluation of disease freedom outside of the control area.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 19 and 20.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator, at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 05

RULES GOVERNING DISEASE OF HOPS (*HUMULUS LAPULUS*)

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-8, August 4, 2004, pages 19 and 20.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule addressed changes to Title 22, Chapter 6, Idaho Code (HB548), which authorized a civil penalty assessment for specialty fertilizers deficient in nutrients as authorized by rule. Specific guidance was needed for assessing penalties as authorized in the revised law. Additionally, the overall index value currently set at 98% had been proven to be too strict and was decreased to 97%. Some technical corrections were also made.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 46 through 52.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 12

RULES PERTAINING TO THE IDAHO FERTILIZER LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 46 through 52.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule adopted the 2005 edition of The Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of fertilizer products. It provides consistency between the states in the registration of fertilizer products.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 65 and 66.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everet, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 12

RULES PERTAINING TO THE IDAHO FERTILIZER LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 65 and 66.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.26 - RULES GOVERNING SEED POTATO CROP MANAGEMENT AREAS

DOCKET NO. 02-0626-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule defined the geographical boundaries for a new Seed Potato Crop Management Area in Elmore County to be known as the Little Camas Ranch Seed Potato Crop Management Area.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 27 through 30. Note: These pages were printed out of sequence and follow page 52 in the Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Garry West, Program Manager at (208) 736-2195 or Michael E. Cooper, Acting Administrator at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 26

RULES GOVERNING SEED POTATO CROP MANAGEMENT AREAS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 27 through 30.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule incorporated by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Office Publication AAPFCO, where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The 13th edition of "The Merck Index," as published in 2001, was also incorporated by reference into this rule.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 67 and 68.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 41

RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 67 and 68.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule adopted the 2005 edition of the Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of soil and plant amendment products. It provides consistency between the states in the registration of soil and plant amendment products.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 69 and 70.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02, TITLE 06, CHAPTER 41

RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 69 and 70.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 130 and 131.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Electrical Bureau Chief, 208-332-7147.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 01, CHAPTER 06

RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 130 and 131.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE

DOCKET NO. 07-0203-0401 (FEE RULE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution at the of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2606, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 132 through 134.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2606, Idaho Code.

The fee change sets the minimum rate for the fire sprinkler portion of the multipurpose residential fire sprinkler and domestic water supply system at sixty ($60) dollars or four ($4) dollars per fire sprinkler head, whichever is greater. The action is authorized pursuant to Section 54-2606, Idaho Code.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St., Meridian, ID 83642
Phone: 208-332-7100/Fax: 208-855-2164

IDAPA 07, TITLE 02, CHAPTER 03

RULES GOVERNING PERMIT FEE SCHEDULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 132 through 134.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2606 and 54-2614A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 135 and 136.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 02, CHAPTER 05

RULES GOVERNING PLUMBING SAFETY LICENSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 135 and 136.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2606 and 54-2617, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 137 through 139.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 02, CHAPTER 05

RULES GOVERNING PLUMBING SAFETY LICENSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 137 through 139.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2606, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 140 and 141.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 02, CHAPTER 05

RULES GOVERNING PLUMBING SAFETY LICENSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 140 and 141.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.07 - RULES GOVERNING CIVIL PENALTIES

DOCKET NO. 07-0207-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution at the of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2606(3)(e) and 54-2607, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 142 through 144.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-2606(3)(e) and 54-2607, Idaho Code. The proposed rule establishes civil penalties not to exceed one thousand dollars ($1,000) for each count or separate offense, to be paid for violations of Section 54-2606, Idaho Code and administrative rules of the Idaho Plumbing Board. The Board is authorized to affirm, reject, decrease or increase the penalty imposed; however, the Board shall not increase any penalty imposed to an amount exceeding one thousand dollars ($1,000) for each individual count or separate offense. This fee is being imposed pursuant to Sections 54-2606(3)(e) and 54-2607. Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St., Meridian, ID 83642
Phone: 208-332-7100/Fax: 208-855-2164

IDAPA 07, TITLE 02, CHAPTER 07

RULES GOVERNING CIVIL PENALTIES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 142 through 144.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.09 - RULES GOVERNING MANUFACTURED HOMES - CONSUMER COMPLAINTS - DISPUTE RESOLUTION

DOCKET NO. 07-0309-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 44-2102(4), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 147 through 150.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 03, CHAPTER 09

RULES GOVERNING MANUFACTURED HOMES - CONSUMER COMPLAINTS - DISPUTE RESOLUTION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 147 through 150.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

DOCKET NO. 07-0311-0401 (FEE RULE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution at the of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 44-2104(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

One change is being made to the pending rule to correct a clerical error that occurred in the proposed rule. Throughout the proposed rule text the term "broker" was stricken, however, it was inadvertently missed in Subsection 004.17.d. The correction is being printed here following this notice.

The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 152 through 162.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 44-2104(3), Idaho Code.

The proposed rule increases industry licensing fees by approximately 76% above current levels. Fees included are for issuance and renewal of licenses for dealers, manufacturers, service companies, installers, salesmen, and responsible managing employees. Section 44-2103, Idaho Code authorizes the fees.

Because of the fees being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

DATED this 3rd day of November, 2004.

Dave Munroe
Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 03, CHAPTER 11

RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 152 through 162.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE CORRECTED TEXT OF DOCKET NO. 07-0311-0401

Subsection 004.17.d.

004. DEFINITIONS.
For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

1~~8~~7. Principal Place of Business. An enclosed structure accessible and open to the public, at which each of the following requirements are met: (5-25-94)

d. The books and other records of the business of the dealer~~/broker~~ shall be kept and maintained; and ~~(5-25-94)~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION

DOCKET NO. 07-0313-0401 (FEE RULE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution at the of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 44-2504(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 163 and 164.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 44-2504(2), Idaho Code. The proposed rule change establishes a fifty-dollar ($50) processing fee that can be charged for applicants who request a mobile home rehabilitation checklist and compliance certification. The proposed rule is authorized in Section 44-2504(2), Idaho Code.

Because of the fee being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100/Fax: 208-855-2164

IDAPA 07, TITLE 03, CHAPTER 13

RULES GOVERNING MOBILE HOME REHABILITATION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 163 and 164.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5004(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 166 through 170.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

IDAPA 07, TITLE 07, CHAPTER 01

RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 166 through 170.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5004(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 171 and 172.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

DATED this 3rd day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100/Fax: 208-855-2164

IDAPA 07, TITLE 07, CHAPTER 01

RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 171 and 172.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 231 through 240.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael N. Becar at (208) 884-7251.

DATED this 29th day of October, 2004.

Michael N. Becar
Executive Director
Idaho State Police
Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251 / (208) 884-7295 (FAX)

IDAPA 11, TITLE 11, CHAPTER 01

RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 231 through 240.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT

DOCKET NO. 12-0108-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 30-14-605, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any change.

There are no changes to the pending rule. The pending rule is being adopted as proposed and is repealed in its entirety. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Vol. 04-9, page 59.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marilyn Chastain, 332-8070.

DATED this 29th day of October, 2004.

Marilyn Chastain
Securities Bureau Chief
Idaho Department of Finance/Securities Bureau
700 West State Street
PO Box 83720, Boise, ID 83720-0031
Phone: 332-8070 / Fax: 332-8099

IDAPA 12, TITLE 01, CHAPTER 08

RULES PURSUANT TO THE IDAHO SECURITIES ACT

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, page 59.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.08 - RULES PURSUANT TO THE UNIFORM SECURITIES ACT (2004)

DOCKET NO. 12-0108-0402 (CHAPTER REWRITE)

NOTICE 0F RULEMAKING

PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2004. This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224 and 67-5291, Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and ammended a temporary rule. The action is authorized pursuant to Section 30-14-605, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any change.

These rules are needed to implement the new Uniform Securities Act (2004) adopted by the 2004 Idaho State Legislature and made effective September 1, 2004. These rules govern the registration of securities and investment professionals, exemptions from the registration requirements, fraud and liabilities in connection with securities transactions, and administrative and judicial review procedures. Current rules pertaining to the repealed (as of September 1, 2004) Idaho Securities Act must be rescinded.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Vol. 04-9, pages 60 through 96.

The rule has been changed to add clarification that the “Act” to which the rules apply is the Uniform Securities Act (2004) set forth in chapter 14, title 30, Idaho Code. The rule has also been changed to note that sales literature relating to certain federal covered securities is excluded from the advertising filing requirements. Finally, the rule clarifies that the Form D filed in connection with a Regulation D, Rule 506 offering must be currently updated.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: These rules provide significant protections to investors, businesses and the securities markets. The rules are needed immediately to implement the new Uniform Securities Act (2004) that is effective on September 1, 2004.

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

The fees in this rulemaking reiterate those listed, and set those authorized, in the Uniform Securities Act (2004), Title 30, Chapter 14, Idaho Code.

Rule 12.01.08.003.04: Securities Exemptions, Opinions, and No-Action Letters. Fee imposed is fifty dollars ($50) for opinion and no-action letters. This is the fee that was charged under the Idaho Securities Act (now repealed). Authority for imposition of this fee is found in Section 30-14-605(d), Idaho Code.

Rule 12.01.08.040.01.c.: Renewal of Registration Statements. Fee imposed is three hundred dollars ($300) for all registered offerings. This is the fee that was charged under the Idaho Securities Act (now repealed). Authority for imposition of this fee is found in Section 30-14-305(h), Idaho Code.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Marilyn Chastain, 332-8070.

DATED this 29th day of October, 2004.

Marilyn Chastain, Securities Bureau Chief
Idaho Department of Finance/Securities Bureau
700 West State Street, PO Box 83720
Boise, ID 83720-0031
Phone: 332-8070 /Fax: 332-8099

IDAPA 12, TITLE 01, CHAPTER 08

RULES PURSUANT TO THE UNIFORM SECURITIES ACT (2004)

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 60 through 96.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 12-0108-0402

Subsection 010.01

010. DEFINITIONS (RULE 10).

01. Act. The Uniform Securities Act (2004) set forth in Chapter 14, Title 30, Idaho Code.
~~*(9-1-04)T*~~(9-1-04)T

Subsection 47.03.f.

047. ADVERTISING (RULE 47).

03. Exemption From Filing. The following types of sales literature are excluded from the filing requirements set forth herein: (9-1-04)T

a. Sales literature which does nothing more than identify a broker-dealer and/or offer a specific security at a stated price; (9-1-04)T

b. Internal communications that are not distributed to the public; (9-1-04)T

c. Prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such; (9-1-04)T

d. Sales literature solely related to changes in a name, personnel, location, ownership, offices, business structure, officers or partners, telephone or teletype numbers; and (9-1-04)T

e. Sales literature filed with and approved by the NASD. (9-1-04)T

f. Sales literature relating to certain federal covered securities as set forth in Section 30-14-504(6), Idaho Code. (9-1-04)T

Subsection 053.02.b.i. and 053.02.d.

053. FEDERAL COVERED SECURITIES (RULE 53).

02. Regulation D Rule 506 Notice Filing. (9-1-04)T

a. Notice Requirement. Issuers offering a security in this state in reliance upon Section 30-14-301, Idaho Code, by reason of compliance with Regulation D, Rule 506, adopted by the United States Securities and Exchange Commission, shall be required to file a notice with the Department pursuant to the authority of Section 30-14-302(c), Idaho Code, if a sale of a security in this state occurs as a result of such offering. (9-1-04)T

b. Terms of Notice Filing. The issuer shall file with the Department no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under Subsection 053.02.a. of this rule: (9-1-04)T

i. One (1) copy of the Form D ~~*as most recently filed with the SEC*~~ currently updated, and the Appendix thereto; ~~*(9-1-04)T*~~(9-1-04)T

ii. A consent to service of process (Form U-2); and (9-1-04)T

iii. The notice filing fee of fifty dollars ($50). (9-1-04)T

iv. A cover letter should be included in the notice filing which states the date in which the first sale of securities occurred in Idaho. (9-1-04)T

c. Terms of Late Notice Filing. An issuer failing to file with the Administrator as required by Subsection 053.02.b. of this rule may submit its notice filing as required in Subsection 053.02.b. of this rule with an additional fifty dollars ($50) late filing payment within thirty (30) days after the first sale of a security in this state. Failure to file a notice on or before the thirtieth day after the first sale of a securities in Idaho will result in the

inability of the issuer to rely on Section 30-14-302(c), Idaho Code, for qualification of the offering in Idaho. (9-1-04)T

d. Issuer Agent Registration. Pursuant to Section 30-14-402(b)(5), Idaho Code, an individual who represents an issuer who effects transactions in a federal covered security under Section 18(b)(4)(d) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. ~~*(9-1-04)T*~~(9-1-04)T

Section 061

061. CROSS-BORDER TRANSACTIONS EXEMPTION (RULE 61).
By authority delegated to the Administrator in Section 30-14-203, Idaho Code, transactions effected by a Canadian broker-dealer and its agents that meet the requirements for exemption from registration pursuant to Section ~~*080*~~ 084 of these rules, are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 30-14-301 and 30-14-504, Idaho Code. ~~*(9-1-04)T*~~(9-1-04)T

Subsection 080.02.d.

080. BROKER-DEALER REGISTRATION -- APPLICATION/RENEWAL (RULE 80).

02. Initial Application - Non-NASD Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are not contemporaneously applying for NASD membership or are not an NASD member, shall file with the Department: (9-1-04)T

d. Documentation of compliance with the minimum capital requirements of ~~*Rule 87*~~ Section 087 of ~~*the Act*~~ these rules; ~~*(9-1-04)T*~~(9-1-04)T

Subsection 089.04

089. INVESTMENT ADVISER REGISTRATION -- APPLICATION/RENEWAL (RULE 89).

04. Applications Prior to Expiration. An application for the renewal of the registration of an investment adviser must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the investment adviser to reapply for registration with the Department in accordance with the requirements of the Act. ~~*(9-1-04)T*~~(9-1-04)T

Subsection 092.03

092. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS (RULE 92).

03. Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-14-~~*410*~~ 405, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410(e), Idaho Code, is filed with and accepted by IARD on behalf of the state. ~~*(9-1-04)T*~~(9-1-04)T

Subsection 104.11

104. FRAUDULENT, DISHONEST AND UNETHICAL PRACTICES - BROKER-DEALER, BROKER-DEALER AGENTS, ISSUER AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES (RULE 104).

11. Failure to Supervise. Failure by a broker-dealer or investment adviser to exercise diligent supervision over the securities activities of all its broker-dealer agents, investment adviser representatives and employees as set forth in Section 105 of these rules. ~~*(9-1-04)T*~~(9-1-04)T

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b) and 36-412 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule clarified that the Hunter Education Program Requirements may be completed through classroom study, home study, or an on-line computer course, and that the Hunter Education Program will be managed by the Department of Fish and Game.

There are no changes to the pending rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 241 and 242.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 02

RULES GOVERNING PUBLIC SAFETY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 241 and 242.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-301 and 36-401 through 36-412, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule would allow for the filing of a nonresident license refund request within one year of the death of a licensee or immediate family, and extend the military personnel refund or raincheck rule for the 2004 season. The proposed rule set the nonresident deer and elk tag quotas.

The pending rule has been amended to correct a clerical error in the number of deer tags. The change that was proposed to reduce the number of deer tags in Subsection 600.01.a. has been deleted, and this subsection has been returned to its original language.

The pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only the section that has changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 243 through 247.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 04

RULES GOVERNING LICENSING

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 243 through 247.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 13-0104-0401

Subsection 600.01.a.

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

a. Twelve thousand ~~*four*~~ eight hundred (12,~~4~~800) regular or Clearwater deer tags; ~~*(3-26-04)T*~~(____)

b. Twelve thousand eight hundred fifteen (12,815) A or B elk tags for all zones; (3-20-04)

c. One thousand two hundred (1,200) S.E. Idaho area Deer tags. (7-1-98)

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule updated classification lists which had not been updated for some time. The lists need to be kept current because they are referenced in various aspects of Department activities such as Scientific Collecting Permits and requests from other state and federal agencies, nongovernmental organizations, consulting businesses, and individuals.

The pending rule is being adopted as proposed wtih no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 248 through 258.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 06

RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 248 through 258.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season setting and rule adjustments. It establish a motorized vehicle use restriction for hunting in identified units, and establish an area closed to hunting at Mann's Lake in Nez Perce County.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 259 through 261.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 07

RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 259 through 261.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule performed an annual update of Big Game seasons and rules. It prohibit the hunting of Big Game within enclosures, clarified the motorized vehicle hunting restriction, and clarified the use of the nonresident junior mentored hunting license and tags. It required an adult with a tag for the same species and area to accompany nonresident junior mentored hunters, deleted the requirement for a mandatory check of Panhandle elk, clarified the areas closed to hunting, defined four-point deer, and simplified the evidence of sex requirements.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 263 through 278.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 08

RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 263 through 278.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season setting and rule adjustments for upland game birds. It established a motorized vehicle use restriction for upland game bird hunting in identified units, and established an area closed to hunting at Mann's Lake in Nez Perce County. It set a ten o'clock (10:00) AM start of shooting hours on certain Wildlife Management Areas.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 280 through 292.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 09

RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 280 through 292.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules made biennial season settings and rule adjustments for fishing. It clarifies the definitions of float tube and snagging, and clarify steelhead and salmon rules.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 294 through 303.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 11

RULES GOVERNING FISH

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 294 through 303.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.12 - RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-804, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgated a new rule with certain changes regarding the use of nets to take Lake Trout. The proposed rule incorporated the requested changes and address the use of commercial fishing to reduce the numbers of Lake Trout as an option for fishery management in Lake Pend Oreille.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 305 through 309.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 12

RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 305 through 309.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.13 - RULES GOVERNING THE TAKING OF MIGRATORY BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0113-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and adjustments, and established an area closed to hunting at Mann's Lake in Nez Perce County.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 310 through 312.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 13

RULES GOVERNING THE TAKING OF MIGRATORY BIRDS IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 310 through 312.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.14 - RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

DOCKET NO. 13-0114-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1102(c), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and rule adjustments.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 314 through 316.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 14

RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 314 through 316.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.16 - RULES GOVERNING THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and rule adjustments, provided a definition of bait, clarified the otter reporting requirement and increased the reimbursement for certain nontarget animals. It also clarified a closure area.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 318 through 322.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 16

RULES GOVERNING THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 318 through 322.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.19 - RULES FOR OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-301, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule clarified and simplified the requirements and documentation for proving residency status for license sales.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 324 through 326.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 19

RULES FOR OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 324 through 326.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

14.01.01 - RULES OF PROCEDURE OF THE BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

DOCKET NO. 14-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, volume 04-10, pages 327 through 330.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret Odedo, Administrative Assistant, at (208) 334-2268.

DATED this 28th day of October, 2004.

Margaret Odedo
Administrative Assistant
Idaho Board of Registration of Professional Geologists
3350 Americana Terrace, Ste. 243
P. O. Box 83720, Boise, ID 83720-0033
Phone: (208) 334-2268 / Fax: (208) 334-5211

IDAPA 14, TITLE 01, CHAPTER 01

RULES OF PROCEDURE OF THE BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 327 through 330.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING

15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 331 through 347.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lois S. Bauer, Administrator, at (208) 334-3833.

DATED this 28th day of October, 2004.

Lois S. Bauer
Administrator
Idaho Commission on Aging
3380 Americana Terrace, Ste. 120
Boise, ID 83706
Phone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15, TITLE 01, CHAPTER 01

RULES GOVERNING SENIOR SERVICES PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 331 through 347.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS

DOCKET NO. 15-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 348 through 351.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lois S. Bauer, Administrator, at (208) 334-3833.

DATED this 28th day of October, 2004.

Lois S. Bauer
Administrator
Idaho Commission on Aging
3380 Americana Terrace, Ste. 120
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Phone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15, TITLE 01, CHAPTER 02

RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 348 through 351.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.26 - RULES GOVERNING IDAHO CHILDREN'S SPECIAL HEALTH PROGRAM

DOCKET NO. 16-0226-0401

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2004. This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-1003 and 56-1019, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In accordance with Section 67-5227, Idaho Code, the text of the pending rule has been amended to correct a clerical error in Section 149 of the proposed rule. The citation to Section 151 should have been changed to Section 150 because of a numbering change made in the proposed rule. This citation has been corrected and is being republished here following this notice.

Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department of Health and Welfare amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 352 and 353.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Russell Duke at (208) 334-0670.

DATED this 3rd day of November, 2004.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16
TITLE 02
CHAPTER 26

RULES GOVERNING IDAHO CHILDREN'S SPECIAL HEALTH PROGRAM

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 352 and 353.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0226-0401

149. PROGRAM ELIGIBILITY.
Eligibility for participation in CSHP is based on age, diagnosis, legal residence, insurance status, and financial criteria. Eligibility criteria is explained further in Sections 15~~1~~0 through 157 of these rules. ~~*(10-1-04)T*~~(10-1-04)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b) and Section 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the September Administrative Bulletin, Volume 04-9, pages 111 through 142.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Paul Leary at (208) 364-1840.

DATED this 3rd day of November, 2004.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 111 through 142.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.50 - ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE

DOCKET NO. 18-0150-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-253 and 41-254, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 163 through 166.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Larson at (208) 334-4370.

DATED this 1st day of November, 2004.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street – 3rd Floor
P. O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No. (208) 334-4298

IDAPA 18, TITLE 01, CHAPTER 50

ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 163 through 166.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS RULES

DOCKET NO. 18-0156-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Subsection 013.02 of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, as a result of an oversight. Specifically the entire second sentence, as opposed to only part of it, is being deleted because it is unnecessary as a result of the addition, in the original proposed rule, of the new sentence at the end of the subsection. Only those sections that have changes that differ from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 04-10, October 6, 2004, pages 405 through 409.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dale Freeman at (208) 334-4250.

DATED this 1st day of November, 2004.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

IDAPA 18
TITLE 01
CHAPTER 56

REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 405 through 409.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 18-0156-0401

Subsection 013.02

013. PERMITTED ADVERTISING WITH TRADE ASSOCIATIONS.

01. Advertisements. No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade association publication is only permitted if the publication is an official publication of the trade association with at least regular quarterly publications. The publications must be nonexclusive (any title entity must have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad must be purely self-promotional. (4-26-95)

02. Donations. A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. ~~*A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation must be made of all members and affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars ($2,000) or equivalent things of value collectively to all trade associations per year.*~~ A title entity is allowed to participate in and/or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, awards banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities, and all other similar activities. ~~*(4-26-95)*~~(____)

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1717, 54-1718, and 54-1719, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 461 through 475.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact R. K. “Mick” Markuson, Director, at (208) 334-2356.

DATED this 28th day of October, 2004.

R.K. “Mick” Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF PHARMACY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 461 through 475.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1717 and 54-1719, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 464 through 466.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact R. K. “Mick” Markuson, Director, at (208) 334-2356.

DATED this 28th day of October, 2004.

R.K. “Mick” Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF PHARMACY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 464 through 466.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0404

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1717 and 54-1718, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 467 through 469.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 28th day of October, 2004.

R.K. "Mick" Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF PHARMACY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 467 through 469.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0405

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1717 and 54-1719, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, page 470.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 28th day of October, 2004.

R.K. "Mick" Markuson
Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 27, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF PHARMACY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, page 470.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 34 - OFFICE OF THE SECRETARY OF STATE

34.03.01 - RULES IMPLEMENTING THE SUNSHINE LAW

DOCKET NO. 34-0301-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Secretary of State and is now pending review by the 2005 Idaho Legislature for final approval. The pending rule becomes final at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Idaho Code 67-5224 and 67-5291. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Idaho Code 67-5224, notice is hereby given that the Secretary of State has adopted a pending rule. This action is authorized pursuant to Idaho Code 67-6619 and 67-6623.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Chapter 66, Title 67, Idaho Code, commonly referred to as the Sunshine Law, requires that lobbyists and their employers certify annual reports on expenditures. These rules formalize the required information and make reference to various forms being available online.

The pending rule is being adopted as proposed with no changes. The complete text of the pending rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 480 through 482.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact Tim Hurst at (208) 334-2300.

DATED this 21st day of October, 2004.

Tim Hurst
Chief Deputy Secretary of State
700 West Jefferson St.
P.O. Box 83720, Boise, Idaho 83720
Tel: (208) 334-2300 / Fax: (208) 334-2282

IDAPA 34, TITLE 03, CHAPTER 01

RULES IMPLEMENTING THE SUNSHINE LAW

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 480 through 482.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.06.01 - RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION

DOCKET NO. 38-0601-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 31-4816(9), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 15, 2004.

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

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

The Emergency Communications Commission ("Commission") was established in the Department of Administration, effective July 1, 2004, pursuant to Section 31-4815, Idaho Code. The Commission has rulemaking authority pursuant to Section 31-4816(9), Idaho Code. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process.

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

Mediation will benefit cities, counties, ambulance districts and fire districts operating consolidated emergency communications systems.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking and because of the concise and simple nature of the rules.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 22, 2004.

DATED this 28th day of October, 2004.

Joanna L. Guilfoy
Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720, Boise, Idaho 83720-0003
Telephone: (208) 332-1832 / Fax: (208) 334-2307

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0601-0401

IDAPA 38
TITLE 06
CHAPTER 01

38.06.01 – RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION

000. LEGAL AUTHORITY.
The following rules are promulgated in accordance with Section 31-4816(9), Idaho Code, by the Commission. (12-1-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.06.01, "Rules Governing the Idaho Emergency Communications Commission". (12-1-04)T

02. Scope. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process. (12-1-04)T

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission. (12-1-04)T

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for administrative appeals of the procedures set forth in this chapter. (12-1-04)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference in this chapter. (12-1-04)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS.
The Idaho Emergency Communications Commission is located in the Department of Administration at 650 W. State Street, Boise, Idaho, 83720-0003. The Commission's mailing address is P.O. Box 83720, Boise, Idaho 83720-0003. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. (12-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). (12-1-04)T

007. -- 010. (RESERVED).

011. DEFINITIONS.

01. Commission. The Idaho Emergency Communications Commission as established within the Department of Administration by Section 31-4815(1), Idaho Code. (12-1-04)T

02. Local Government Agency. Those entities subject to Sections 31-4801 through 31-4818, Idaho Code. (12-1-04)T

03. Mediation. The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. (12-1-04)T

04. Submission. Submission of the issues for mediation has occurred when the documents referred to in Sections 012., 020. and 035., if required, have been received by the Commission. (12-1-04)T

012. REQUEST FOR MEDIATION.
The parties must submit a written request for mediation to the Commission. The written request must demonstrate to the reasonable satisfaction of the Commission that all parties are requesting the mediation. (12-1-04)T

013. SCHEDULED GROUP MEDIATION.
Within fifteen (15) days from the date of receipt of a request for mediation, the Commission shall schedule a date for a mediation at which all parties and a quorum of the Commission can be present. The Commission shall notify the parties in writing of the date of the group mediation. (12-1-04)T

014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.
The Commission may require the parties to produce documents at or before the date set for the group mediation. Such documents may include, but are not limited to, individual statements of position from each party. The Commission shall notify the parties in writing of any documents that may be required to be produced and the date of submission. No later than the date set by the Commission, the parties shall exchange and simultaneously submit to the Commission the required documents and exhibits. (12-1-04)T

015. -- 019. (RESERVED).

020. INDIVIDUAL POSITION STATEMENTS.
If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. (12-1-04)T

01. Stipulation of Facts. The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. (12-1-04)T

02. Supporting Documents. The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. (12-1-04)T

021. -- 024. (RESERVED).

025. JUDICIAL RULES.
The Commission will not be bound by any judicial rules of evidence or burden of proof applicable to civil proceedings. (12-1-04)T

026. -- 029. (RESERVED).

030. GROUP MEDIATION.
The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. (12-1-04)T

01. Initial Presentation. Each party shall make an initial presentation of its position with respect to the dispute. (12-1-04)T

02. Rebuttals. The Commission may allow rebuttals to such presentations when it considers them relevant or necessary to make its recommendations. (12-1-04)T

03. Time Limits. The Commission may set and limit the time of any presentation as it deems necessary for a sufficient understanding of the facts or issues to make its recommendation. (12-1-04)T

04. Questions by Commission. The Commission may question the parties during the group mediation. (12-1-04)T

031. -- 034. (RESERVED).

035. SUPPLEMENTAL DOCUMENTATION.
The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. (12-1-04)T

036. -- 039. (RESERVED).

040. COMMISSION RECOMMENDATION.

01. Time of Recommendation. No later than sixty (60) days from the date of submission of the issues to it, the Commission shall make its recommendation to the parties. (12-1-04)T

02. Recommendation Oral or Written. The Commission may make such recommendation orally or in writing. (12-1-04)T

03. Parties Can Accept in Whole or Part. The parties may accept the recommendation of the Commission in whole or in part. (12-1-04)T

041. -- 044. (RESERVED).

045. TERMINATION OF MEDIATION.
The mediation shall be terminated: (12-1-04)T

01. Settlement. By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or (12-1-04)T

02. Failure to Agree. By the written declaration of all parties and the chairman, on behalf of the Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. (12-1-04)T

046. -- 999. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.41 - RULES GOVERNING PROVISIONS APPLICABLE TO FEES FOR SERVICES

DOCKET NO. 39-0241-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 49-201(1), 49-202(2), and 67-2510, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 15, 2004.

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

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

This rule allowed bulk sale of the driver record database (more than 925,000 records). Concerns related to privacy and re-dissemination of personal information made continuation of bulk sale of driver records questionable. The rule change removes the provision for bulk sale of driver records. Individual record access to driver information would continue to be available to authorized requestors as provided in Section 49-203, Idaho Code.

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

This rulemaking removes the provision for bulk sale of driver records, which will help to protect the privacy of drivers in Idaho.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee or charge being imposed or increased.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were determined to be in the public interest to protect the privacy of drivers licensed in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before December 22, 2004.

DATED this 3rd day of November, 2004.

Linda L. Emry, Management Assistant
Office of Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0241-0401

002. WRITTEN INTERPRETATIONS.
There are no written interpretations for this chapter. (12-1-04)T

003. ADMINISTRATIVE APPEALS.
Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (12-1-04)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference in this chapter. (12-1-04)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (12-1-04)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (12-1-04)T

03. Telephone and FAX numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (12-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.
All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (12-1-04)T

00~~2~~7. -- 099. (RESERVED).

100. ADMINISTRATION.
Idaho Code provides for the collection of fees for related services. This rule provides for automation considerations and a fee schedule to uniformly apply the ten dollar ($10) per-hour fee provided by Idaho Code. The following fees apply for services and copies of files regarding motor vehicle or other registration, motor vehicle titles, drivers' licenses or commercial drivers licenses, and are based on a ten dollar ($10) per hour photocopying charge: (12-26-90)

01. Paper or Microfilm Records. Copies of supporting driver's license, registration, or title records from paper or microfilm records, based on an average of twenty-four (24) minutes to fully process these requests. Fee per document, four dollars ($4). (9-4-91)

02. Automated Records. Idaho Code does not provide a fee for complete county or statewide automated copies of ~~*driver's license,*~~ registration or title files. A fee has been based on the costs to produce special file requests. ~~*(12-26-90)*~~(12-1-04)T

a. A base charge for programs requiring: One (1) to three (3) sorts, seventy-five dollars ($75). Each additional sort, twenty-five ($25). (12-26-90)

b. In addition to the above, the computer cost, printer cost and tape access cost, as established by ~~*ISDP*~~ the information technology section will be charged. ~~*(12-26-90)*~~(12-1-04)T

c. Any mailing, shipping or special handling costs will also be added to the charges. (12-26-90)

03. Magnetic Tapes Must Be Provided. Requestors must provide magnetic tapes for this purpose. Data is provided in a standard department format. Vehicle or driver history information is not included. The only

selection ~~*criteria*~~ criterion is by counties. ~~*(12-26-90)*~~(12-1-04)T

04. Records Provided Free of Charge. Motor vehicle and driver records will be provided free of charge to the following: (9-4-91)

a. State Agencies. (9-4-91)

b. County Assessors. (9-4-91)

c. County Sheriffs. (9-4-91)

d. Peace Officers requesting records in the performance of their duties as per Section 49-202(3), Idaho Code. (9-4-91)

05. Rules for Providing Records Free of Charge. The Division of Motor Vehicles ~~*Bureau*~~ shall observe the following guidelines when providing records free of charge: ~~*(9-4-91)*~~(12-1-04)T

a. Records will be provided free of charge only if they are a standard computer run that does not require special programming and/or sorting. Records requiring special handling will be provided for a fee equal to the cost of the additional handling. (9-4-91)

b. Records will be provided free of charge on computer tapes supplied by the requestor, or as a standard computer printout. All other formats will be provided for a fee equal to the cost of the additional materials. (9-4-91)

c. The Assessor's Clearinghouse and the Sheriff's Clearinghouse shall each establish a single standardized computer printout that will be used for all motor vehicle and driver requests from their respective agencies. (9-4-91)

d. Records access agreements between the Division of Motor Vehicles ~~*Bureau*~~ and government agencies requesting motor vehicle and driver records shall be negotiated and renewed annually, and shall contain a list of all personnel who will have access to the records and/or on-line terminals. ~~*(9-4-91)*~~(12-1-04)T

e. On-line computer installation and equipment shall be charged at a rate defined in the annual agreement. (9-4-91)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1011, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule would allow awnings to be excluded when measuring the overall width of recreational vehicles.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 221 and 222.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 3rd day of November, 2004.

Linda L. Emry, Management Assistant
Office of Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 06

RULES GOVERNING ALLOWABLE VEHICLE SIZE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 221 and 222.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-0401

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 1, 2004. This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Due to ever increasing traffic volumes on the interstate highways, the proposed rule was modified to restrict over-width permitted vehicles from operating on certain sections of interstate highways during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4 p.m. to 6 p.m.). There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

At the recommendation of the Legislative Services Office, Subsection 200.06 has been amended, pursuant to Section 67-5227, Idaho Code, to provide clarity and consistency in the language.

The temporary rule has been amended under the authority of the Idaho Transportation Board with the same revisions which have been made to the pending rule. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code and is being republished following this notice. Only the sections that have changes which differ from the proposed text are printed in this bulletin.

The original text of the proposed rules was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 615 through 617.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 3rd day of November, 2004.

Linda L. Emry
Management Assistant
Office of Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39
TITLE 03
CHAPTER 11

RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 615 through 617.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 39-0311-0401

Subsection 200.06

200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.
Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

06. Heavy Commuter Traffic Restrictions. The movement of oversize vehicles or loads which are in excess of twelve (12) feet in width, may be prohibited from movement on all state and Interstate highways at times of heavy commuter traffic. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m. and 4 p.m. to 6 p.m. Restrictions for the operation of ~~*overlegal*~~ oversize vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. ~~*(11-1-04)T*~~(11-1-04)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective April 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-201(3), and 67-5229, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule adopted, by incorporation by reference, the most recent publication of the MUTCD, including Revision One, dated July 21, 2004, with specified exceptions, as noted in the rule-making. All changes and exceptions have been reviewed and approved by FHWA, ACHD and LHTAC. The exceptions were necessary to bring the MUTCD into conformance with Idaho Code, correct errors and accommodate the operations of the department and local transportation agencies. However, unlike previous years, the exceptions were not substantive but necessary due primarily to formatting changes in the 2003 MUTCD.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 619 through 624.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lance Johnson, Traffic & Highway Safety Manager, 334-8557.

DATED this 3rd day of November, 2004.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 41

RULES GOVERNING TRAFFIC CONTROL DEVICES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 619 through 624.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 40 - IDAHO COMMISSION ON THE ARTS

40.01.01 - RULES OF THE IDAHO COMMISSION ON THE ARTS

DOCKET NO. 40-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5605, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 625 through 648.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Harpole, Executive Director, at (208) 334-2119.

DATED this 28th day of October, 2004.

Dan Harpole
Executive Director
Idaho Commission on the Arts
The Warden's Residence
2410 Old Penitentiary Rd., Boise, ID 83712
Phone: (208) 334-2119
Fax: (208) 334-2488

IDAPA 40, TITLE 01, CHAPTER 01

RULES OF THE IDAHO COMMISSION ON THE ARTS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 625 through 648.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 49 - BOARD OF CERTIFIED SHORTHAND REPORTERS

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 649 through 657.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret Odedo, Executive Secretary, at (208) 334-2517.

DATED this 28th day of October 2004.

Margaret Odedo
Executive Secretary
Idaho Certified Shorthand Reporters Board
3350 Americana Terrace, Ste. 243
P. O. Box 83720, Boise, ID 83720-0017
Phone: (208) 334-2517
Fax: (208) 334-5211

IDAPA 49, TITLE 01, CHAPTER 01

RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 649 through 657.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 51 - IDAHO BEEF COUNCIL

51.01.01 - IDAHO BEEF COUNCIL RULES

DOCKET NO. 51-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2906(9), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 658 through 659.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Wilder, Executive Director, at (208) 376-6004.

DATED this 28th day of October, 2004.

Laura Wilder
Executive Director
Idaho Beef Council
2118 Airport Way
Boise, ID 83705-5156
Phone: (208) 376-6004
Fax: (208) 376-6002

IDAPA 51, TITLE 01, CHAPTER 01

IDAHO BEEF COUNCIL RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 658 and 659.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0304

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective December 1, 2004. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The U.S. Environmental Protection Agency has revised regulations in 40 CFR Part 52, governing the New Source Review programs mandated by Title I of the Clean Air Act. DEQ has initiated this rulemaking to incorporate these changes into the Rules for the Control of Air Pollution in Idaho. Incorporation of the revisions to 40 CFR Part 52 into the Rules for the Control of Air Pollution in Idaho will include changes in New Source Review applicability requirements for modifications to allow sources of air emissions greater regulatory certainty, flexibility and permit streamlining while ensuring protection of public health and the environment. This rule was adopted by the Board of Environmental Quality as a temporary rule in February 2004 and is currently effective.

In May 2004, the Department of Environmental Quality (DEQ) published the proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, May 5, 2004, Volume 04-5, pages 116 through 137. All public comments received are in support of the rule, and the rule has been adopted as initially proposed.

After adoption of the temporary rule, DEQ discovered minor errors and requested that the Board amend the temporary rule for consistency with the pending rule. The temporary rule has been amended at Subsection 205.02.f. and the table in Section 225. The rulemaking record, which contains a detailed explanation for these changes, can be obtained by contacting the undersigned.

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

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us.

DATED this 21st day of October, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

IDAPA 58
TITLE 01
CHAPTER 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are no substantive changes from the proposed rule text.

Only those sections that have changed from the original temporary text are printed in this Bulletin following this notice.

The original text of the Temporary Rule was published in the Idaho Administrative Bulletin, Volume 04-3, March 3, 2004, pages 20 through 41.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-5, May 5, 2004, pages 116 through 137.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0101-0304

Subsection 205.02.f.

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.
The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (2-5-04)T

02. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (2-5-04)T

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse, Administrator means the EPA Administrator. ~~*(2-5-04)T*~~(12-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

Section 225

225. PERMIT TO CONSTRUCT PROCESSING FEE.
A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	$7,500
New major facility or major modification	$10,000
Permit modifications where no engineering analysis is required	$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	$0.00

~~*(2-5-04)T*~~(12-1-04)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 44 and 58, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: In May 2004, this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial notice of proposed rule that published in the Idaho Administrative Bulletin, July 7, 2004 Volume 04-7, pages 112 through 114. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department of Environmental Quality (DEQ) states that this rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows:

1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18.

4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, DEQ will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23.

The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact John Brueck, (208)373-0458 or jbrueck@deq.state.id.us.

Dated this 21st day of October, 2004.

Paula J. Wilson
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IDAPA 58
TITLE 01
CHAPTER 05

RULES AND STANDARDS FOR HAZARDOUS WASTE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 112 through 114.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Volume 04-8, pages 203 through 209. DEQ received two public comments. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the comments and an explanation of the reasons for adopting the rule as initially proposed, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

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

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact John Brueck at (208)373-0458 or jbrueck@deq.state.id.us.

Dated this 21st day of October, 2004.

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IDAPA 58, TITLE 01, CHAPTER 05

RULES AND STANDARDS FOR HAZARDOUS WASTE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-8, August 4, 2004, pages 203 through 209.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0403

NOTICE OF RULEMAKING - PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule will become effective January 22, 2005. The pending rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and a temporary rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Volume 04-7, pages 144 through 151. The Department of Environmental Quality (DEQ) held a public hearing in Boise, Coeur d'Alene, and Pocatello. No members of the public attended the hearing. DEQ received one public comment. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule as initially proposed, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being printed in its entirety in this Bulletin.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of this rule is necessary to comply with deadlines in federal law.

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

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Jerri Henry at (208)373-0471 or jhenry@deq.state.id.us.

DATED this 21st day of October, 2004.

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IDAPA 58, TITLE 01, CHAPTER 08

IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 144 through 151.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0403

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4, revised as of July 1, ~~1999~~ 2004, is herein incorporated by reference. ~~(4-5-00)~~(1-22-05)T

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 550 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (5-3-03)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

d. The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsection 558.09 for certified operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the annual renewal date. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsection 558.09 for the certification renewal cycle in progress at the time the operator returns to the state. (5-3-03)

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (5-3-03)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the

Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. **Exceptions**. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

07. **Surface Water Variances**. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. **Surface Water Exemptions**. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

01. **Inorganic Contaminants**. (10-1-93)

a. 40 CFR 141.11, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

b. 40 CFR 141.62, revised as of July 1, 2004, is herein incorporated by reference. ~~*(10-1-93)*~~(1-22-05)T

c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)

02. **Organic Contaminants**. (10-1-93)

a. 40 CFR 141.12, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

b. 40 CFR 141.61 is herein incorporated by reference. except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. (10-1-93)

03. **Turbidity**. 40 CFR 141.13 is herein incorporated by reference. (10-1-93)

04. **Radionuclides**. 40 CFR 141.66, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

05. **Microbiological Contaminants**. 40 CFR 141.63, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

06. **Maximum Contaminant Levels For Disinfection Byproducts**. 40 CFR 141.64, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

07. **Maximum Residual Disinfectant Levels**. 40 CFR 141.65, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

08. **Effective Dates**. 40 CFR Part 141, revised as of July 1, 2004, is herein incorporated by reference. Effective date information provided in ~~*specified Sections of*~~ 40 CFR ~~*that are incorporated by reference are*~~ 141.6 and 40 CFR 141.60 is applicable. ~~*(12-10-92)*~~(1-22-05)T

(BREAK IN CONTINUITY OF SECTIONS)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

01. Microbiological Contaminant Sampling and Analytical Requirements. (10-1-93)

a. 40 CFR 141.21, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

b. The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

c. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

d. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)

i. Identifies the cause of the contamination; (12-10-92)

ii. Is making progress towards correcting the problem; (12-10-92)

iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)

iv. Follows public notification requirements specified under 40 CFR 141.32, revised as of July 1, 2001, for acute MCL violations including notice for consumers to boil their water; (3-15-02)

v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)

vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)

vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)

02. Turbidity Sampling and Analytical Requirements. 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

03. Inorganic Chemical Sampling and Analytical Requirements. 40 CFR 141.23, revised as of July 1, 200~~1~~4, is herein incorporated by reference. ~~*(3-15-02)*~~(1-22-05)T

04. Organic Chemicals Other Than Total Trihalometranes, Sampling and Analytical Requirements. 40 CFR 141.24, revised as of July 1, 200~~1~~4, is herein incorporated by reference.~~*(3-15-02)*~~(1-22-05)T

05. Analytical Methods for Radioactivity. 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems. 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

07. Waivers and Vulnerability Assessments. (10-1-93)

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 551.01.h. and 551.01.i. may be available to all systems for all contaminants except nitrate, nitrite, arsenic and trihalomethanes, and are based upon a vulnerability assessment, use assessment and/or the analytical results of previous sampling. (10-1-93)

b. There are two (2) general types of monitoring waivers: (12-10-92)

i. Waivers based exclusively upon previous analytical data (12-10-92)

ii. Waivers based on a use or vulnerability assessment. (12-10-92)

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 200~~1~~4, 40 CFR 141.24, revised as of July 1, 200~~1~~4, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: ~~(3-15-02)~~(1-22-05)T

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. All analyses conducted pursuant to this chapter, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. The following analyses shall be conducted by the public water system in accordance with the procedures approved in Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, Subsection 008.02, “Rules Governing Certification of Idaho Water Quality Laboratories”. (10-1-93)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; and (12-10-92)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c. (12-10-92)

11. **Consecutive Water System**. 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

12. **Total Trihalomethane Sampling, Analytical and Other Requirements**. 40 CFR 141.30, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.

01. **Organic Contaminants**. 40 CFR 141.50 is herein incorporated by reference. (10-1-93)

02. **Inorganic Contaminants**. 40 CFR 141.51, revised as of July 1, 2004, is herein incorporated by reference. ~~*(10-1-93)*~~(1-22-05)T

03. **Microbiological Contaminants**. 40 CFR 141.52, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

04. **Maximum Contaminant Level Goals for Disinfection Byproducts**. 40 CFR 141.53, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

05. **Maximum Residual Disinfectant Level Goals for Disinfectants**. 40 CFR 141.54, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

06. **Radionuclides**. 40 CFR 141.55, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

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

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 2, 2004, Volume 04-6, pages 49 through 67. DEQ received comments from the public. The proposed rule has been revised at Sections 001, 200, 300, 600, 601, and 602. The remaining sections have been adopted as initially proposed and have not been republished with this notice. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to the Wastewater-Land Application Permit Rules, IDAPA 58.01.17. The requirements set forth in this rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The limits for Five Day Biochemical Oxygen Demand (BOD_5), Total Organic Carbon (TOC), and Total Suspended Solids (TSS) for Class A Reclaimed Wastewater (5 mg/L each) are based on the study of limits in other states. These measurable quantities are indicators of the effectiveness of treatment and not direct measurements of risk to human health. There are several states that presently regulate this type of wastewater reuse. Some states have lower limits and some have higher limits in their rules. DEQ evaluated the various limits used by other states and used limits in the rule that it believes are reasonable and protective given the associated risks. Until the reliability of various treatment facilities in Idaho has shown overall protectiveness to human health and the environment, DEQ feels that these limits are required to protect the citizens and environment of Idaho.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater

effluent, the coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of 2.2 total coliform limit is in the existing Wastewater-Land Application Permit Rules.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed by contacting the undersigned.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Dated this 21st day of October, 2004.

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IDAPA 58
TITLE 01
CHAPTER 17

WASTEWATER-LAND APPLICATION PERMIT RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-6, June 2, 2004, pages 49 through 67.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0117-0301

Subsection 001.02

001. TITLE AND SCOPE.

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for the treatment of municipal and industrial wastewaters by application to land, and the treatment of municipal wastewaters for other reuse purposes as defined in Subsection 600.07, Direct Use of Municipal *Reclaimed* Wastewater. ~~*(4-1-88)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

Subsections 200.05, 09, 23 through 25, and 30

200. DEFINITIONS.
For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

05. ***Class A* Capacity**. The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. ( )

09. Idaho Guidance For Land Application Of Municipal And Industrial Wastewater. This document, *and subsequent revisions of this document*, provides *assistance* for permitting and operating land application facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 *and www.deq.idaho.gov.* ( )

23. **Reclaimed W*astew*ater**. For the purpose of these rules, the term reclaimed water or reuse shall mean municipal wastewater that is used in accordance with these rules. ( )

***15*24.** **Restricted Public Access**. Preventing public entry within one thousand (1,000) feet of the border of a facility by site location or physical structures such as fencing. A buffer strip less than one thousand (1,000) feet may be accepted if aerosol drift is reduced. (4-1-88)

25. ***Reclaimed Wastewater* Facility**. Any municipal structure or system designed or used to treat *municipal* wastewater for the purpose of reusing the effluent including, but not limited to, *municipal* wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the *reclaimed* wastewater is applied. ( )

***20*30.** **Wastewater Treatment System**. All phases of wastewater treatment including any pretreatment equipment and the land *application* treatment facility *on which the wastewater is applied*. *(4-1-88)*( )

Subsections 300.01, 02, 05.k., 06, and 07

300. PERMIT REQUIREMENTS AND APPLICATION.

01. **Permit Required**. No person shall construct, modify, operate, or continue to operate a land application facility or other *reclaimed wastewater* facility without a valid permit issued by the Director as provided in these rules. *(4-1-88)*( )

02. **Dischargers**. No person shall discharge to a land application or other *reclaimed wastewater* facility without a valid permit issued by the Director as provided in these rules. *(4-1-88)*( )

05. **Application Contents**. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

k. Other information may also be required. The Idaho Guidance for Land Application of Municipal and Industrial Wastewater is *intended to provide assistance to permit applicants in obtaining a wastewater land application permit*. ( )

06. **Existing Land Application Facility**. Any existing land application facility *will* or other *reclaimed wastewater* facility shall be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. *(4-1-88)*( )

07. **New Land Application Facility**. Any new proposed land application facility *will* or other *reclaimed wastewater* facility shall be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. *(4-1-88)*( )

Subsections 600.07 and 600.08

600. SPECIFIC PERMIT CONDITIONS.

07. **Direct Use Of Municipal *Reclaimed* Wastewater**. Treatment requirements applicable to direct use

of municipal *reclaimed* wastewater include, but are not limited to, the following~~:~~. The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. ~~*(4-1-88)*~~( )

a. Class A effluent is municipal *reclaimed* wastewater that may be used under particular circumstances for residential irrigation at individual homes (controlled only by the system operator), ground water recharge, surface spreading, seepage ponds, other unlined water features, and other appropriate uses. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. *E*nhanced filtration *approval* requirements, nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge, surface spreading, seepage ponds, and other unlined water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Class A effluent for residential irrigation should be applied only during periods of non-use. ( )

~~*a*~~**b.** ~~*Where the*~~ Class B effluent is municipal *reclaimed* wastewater that may contact any edible portion of raw food crops~~*, the municipal wastewater*~~ or is used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure. Class B effluent shall be oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected. Class B treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. ~~*The municipal wastewater*~~ Class B effluent shall be considered adequately disinfected if, at ~~*some location in the treatment process*~~ the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of application. The point of compliance for Class B effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. Class B effluent shall be applied only during periods of non-use by the public. ~~*(12-31-91)*~~( )

~~*b*~~**c.** ~~*Where the*~~ Class C effluent is municipal *reclaimed* wastewater that will only contact the unedible portion of raw food crops, ~~*the wastewater*~~ or is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation, and other areas where individuals have access or exposure. Class C effluent shall be oxidized and adequately disinfected. ~~*The municipal wastewater*~~ *Class C effluent* shall be considered adequately disinfected if, at ~~*some location in the treatment process*~~ the point of compliance, the median number of total coliform organisms does not exceed ~~*two and two-tenths (2.2)*~~ twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last ~~*seven*~~ five (~~*7*~~5) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at the entrance to the distribution system following final treatment and disinfection contact time, but before storage. Class C effluent shall be applied only during periods of non-use by the public. ~~*(12-31-91)*~~( )

~~*c*~~**d.** ~~*Where*~~ Class D effluent is municipal *reclaimed* wastewater ~~*is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground,*~~ that is used to irrigate fodder, seed, or processed food crops and ~~*if:*~~ ~~*(4-1-88)*~~

~~*i.*~~ ~~*Public access is not restricted, the municipal wastewater shall be of primary effluent quality*~~ is oxidized and adequately disinfected. ~~*The municipal wastewater*~~ *Class D effluent* shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not

exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last ~~*seven*~~ three (~~7~~3) days for which analyses have been completed~~;~~. For Class D effluent, analysis shall be based on monthly sampling during periods of application. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. ~~*(12-31-91)*~~( )

~~*ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. (4-1-88)*~~

e. Class E effluent is municipal *reclaimed* wastewater that is used to irrigate fodder, seed, or processed food crops or forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application.( )

~~***d.*** *Where municipal wastewater is used to irrigate fodder, seed or processed food crops if: (4-1-88)*~~

~~*i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Animals shall not be grazed on land where municipal wastewater is applied. (12-31-91)*~~

~~*ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. Animals shall not be grazed on land where municipal wastewater is applied and shall not be fed vegetation irrigated in this manner within two (2) weeks of application. (4-1-88)*~~

~~***e.*** *Where municipal wastewater is used to irrigate golf courses, cemeteries, roadside vegetation, and other areas where individuals have access or exposure, the municipal wastewater shall be oxidized and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)*~~

~~***f.*** *Where municipal wastewater is used to irrigate parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure, the municipal wastewater shall be oxidized, coagulated, clarified, filtered or treated by an equivalent process and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)*~~

08. Direct Use Of Municipal *Reclaimed* Wastewater - Classification Table. The following table further describes the requirements for direct use of municipal *reclaimed* wastewater outlined in Subsection 600.07.

Classification Table					
Classification	**Class A**	**Class B**	**Class C**	**Class D**	**Class E**
Treatment	This is a partial list - see Section 601 for more detail: Oxidized, coagulated, clarified, with enhanced filtration *approval* requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and pilot tested.	Oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected and pilot tested.	Oxidized and adequately disinfected	Oxidized and adequately disinfected	At least primary effluent quality
Disinfection	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters	Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters	Total coliform organisms up to "too numerous to count"
Uses	Residential irrigation at individual homes, ground water recharge, surface spreading, seepage ponds, other unlined water features, or Class B, C, D, or E uses. Other requirements apply for groundwater uses.	May contact any edible portion of raw food crops, or is used to irrigate golf courses, parks, playgrounds, schoolyards or Class C, D, or E uses.	Used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation or Class D or E uses.	Used to irrigate fodder, seed, or processed food crops or Class E uses.	Used to irrigate fodder, seed, processed food crops, or forested sites.
Access Restriction	Irrigated during periods of non-use.	Irrigated during periods of non-use by the public.	Irrigated during periods of non-use by the public.	Public access restricted.	Public access restricted.

Classification Table					
Classification	**Class A**	**Class B**	**Class C**	**Class D**	**Class E**
Signing and Posting	See Subsection 601.02	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater
Buffer Zones	No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways *without an NPDES Permit*.	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	1000 ft. to inhabited dwellings and areas accessible to the public
Grazing	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing not allowed.	Grazing not allowed.

( )

Section 601, Subsections 601.01, 02.e.iii. through 02.e.v., 04.d., and 08.e.

601. CLASS A EFFLUENT *MUNICIPAL RECLAIMED WASTEWATER* - ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A *effluent municipal reclaimed wastewater* systems or major upgrades to Class A *effluent municipal reclaimed wastewater* systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; pilot testing; client use issues; potential markets; potential sources of wastewater; public involvement and perception; targeted markets; allocation; preliminary investigations; staff development; treatment system upgrades *to meet Class A requirements*; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility". ( )

02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: ( )

e. Other Requirements. ( )

iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent *shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water.* ( )

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed W*astew*ater - Do Not Drink". ( )

v. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed W*astew*ater - Do Not Drink". The signs shall include the international symbol for Do Not Drink. ( )

04. Filtration Technology Approval Requirements. All Class A effluent projects in Idaho must have written approval from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. The following approaches are methods by which this written approval may be obtained from the Department. ( )

a. Department approval based on previous similar projects in Idaho. ( )

b. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved by the Department. ( )

c. The State of California Department of Health Services Treatment Technology Report for Recycled Water. ( )

d. *Other methods approved by the Department.* ( )

08. Other Class A Effluent Requirements. ( )

e. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing *Class A effluent* municipal *reclaimed* wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of two thousand (2000) feet from any drinking water extraction well and shall also provide for a minimum of one (1) year of storage in the aquifer prior to withdrawal. The Idaho Department of Water Resources requires additional permits for ground water injection wells. ( )

Section 602, Subsections 602.01, 02.a, 03, 03.a., 03.b., 03.e., 05, and 06

602. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF CLASS A EFFLUENT *RECLAIMED* WASTEWATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new class A effluent *reclaimed* wastewater system until it has been demonstrated to the Department that the *new Class A effluent reclaimed* wastewater system will have adequate technical, financial, and managerial capacity. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 601.02.a. of these rules. The Applicant must obtain Department approval of the new system capacity demonstration prior to permit issuance and construction. ( )

01. **Technical Capacity**. In order to meet this requirement, the Class A effluent *reclaimed* wastewater system shall submit documentation to demonstrate the following: ( )

02. **Financial Capacity**. A demonstration of financial capacity must include, but is not limited to, the following information: ( )

a. Documentation that organizational and financial arrangements are adequate to construct and operate the Class A effluent *reclaimed wastewater* distribution system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; ( )

03. **Managerial Capacity**. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new Class A effluent *reclaimed* wastewater system shall submit at least the following information to the Department: ( )

a. Clear documentation of legal ownership of the Class A effluent *reclaimed* wastewater system, including collection, treatment and effluent distribution systems, and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; ( )

b. The name, address, and telephone number of the person who will be accountable for ensuring that the *Class A effluent reclaimed* wastewater system is in compliance with these rules; ( )

e. Personnel management policies and a description of staffing, including training, experience, certification or licensing, and continuing education completed by the *Class A effluent reclaimed* wastewater system staff; ( )

05. **Consolidation**. In demonstrating new system capacity, the owner of the proposed new Class A effluent *reclaimed* wastewater system shall investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner shall explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. ( )

06. **Exclusion**. New Class A effluent *reclaimed* wastewater systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, shall meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such wastewater systems shall not be required to meet any requirements of Section 602 which are in conflict with the provisions and requirements of the Idaho Public Utilities Commission. ( )

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

DESCRIPTIVE SUMMARY: In May 2004, this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004 Volume 04-7, pages 152 through 155. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department of Environmental Quality (DEQ) states that this rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows:

1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18.

4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, DEQ will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23.

The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact the undersigned.

Dated this 21st day of October, 2004.

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IDAPA 58
TITLE 01
CHAPTER 23

RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 152 through 155.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

Subjects Affected Index

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07.03.11 - Rules Governing Manufactured/Mobile Home Licensing

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PUBLIC NOTICE OF INTENT
TO PROPOSE OR PROMULGATE
NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0003

38-0601-0401, Rules Governing the Idaho Emergency Communication System. New chapter directs the commission to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Comment by: 12/22/04.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129

39-0241-0401, Rules Governing Provisions Applicable to Fees for Services. Removes the provision for bulk sale of driver records due to privacy considerations. Comment by: 12/22/04.

Please refer to the Idaho Administrative Bulletin, **December 1, 2004, Volume 04-12** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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