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

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
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

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
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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05-12	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 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0402

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-204(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

1) Change references from "AICPA-SECPS" to "AICPA Center for Public Company Audit Firms". The AICPA disbanded their SEC Practice Section and replaced it with the Center for Public Company Audit Firms (CPCAF) in response to Sarbanes-Oxley federal mandates. Our rules refer to the "non-existent" division. They need reflect the new entity.

2) Update the standards being incorporated by reference. Idaho Code requires agencies to cite the specific year when we incorporate standards by reference. We incorporate CPE, AICPA and PCAOB standards. The CPE Standards are still accurate, but the AICPA and PCAOB Standards need to be updated from 2004 to 2005.

3) Insert the phrase "that are subject to peer review" when referring to firm registration, to avoid being forced to collect fees from public accounting firms that should not pay them. List all documents required to be submitted with firm registration.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were discussed in public meetings and newsletters, without any objections from the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 22nd Day of September, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0402

004. INCORPORATION BY REFERENCE. (RULE 004).
The following documents are hereby incorporated by reference into IDAPA 01.01.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. (1-1-04)T

01. AICPA Standards. 200~~4~~5 AICPA Professional Standards, except as superceded by Section 54-206(8), Idaho Code. ~~(1-1-04)T~~(____)

02. CPE Standards. 2002 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (4-2-03)

03. PCAOB Standards. 200~~4~~5 Standards issued by the Public Company Accountability Oversight Board. ~~(1-1-04)T~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 010).
The Idaho State Board of Accountancy adopts the definitions set forth in Section 54-206, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. Administering Organization. An entity that has met, and at all relevant times continues to meet, the standards specified by the Board for administering peer reviews. (4-2-03)

02. Board. The Board or its designated representative. (4-2-03)

03. Candidate. Applicants approved to sit for the CPA Examination. (4-2-03)

04. CPA Examination. Uniform Certified Public Accountant Examination. (4-2-03)

05. CPCAF. Center for Public Company Audit Firms of the AICPA. (____)

0~~5~~6. CPE. Continuing Professional Education. (4-2-03)

0~~6~~7. Examination Window. The three-month period in which candidates have an opportunity to take the CPA Examination. (3-16-04)

0~~7~~8. Monitoring Organization. An independent body that oversees the self-regulatory programs of the ~~*SECPS*~~ CPCAF. ~~(4-2-03)~~(____)

0~~8~~9. NASBA. The National Association of State Boards of Accountancy. (3-16-04)

~~09~~10. National Candidate Database. The National Association of State Boards of Accountancy database of all CPA Examination candidates on a nationwide basis. (3-16-04)

1~~0~~1. Oversight Committee. The Peer Review Oversight Committee. (4-2-03)

1~~1~~2. Peer Review. The study, appraisal or review, by a licensee who is not affiliated with the licensee or firm being reviewed, of one (1) or more aspects of the professional work of a licensee or firm that issues attest or compilation reports. (4-2-03)

1~~2~~3. Reporting Form. CPE reporting form. (4-2-03)

~~***13.*** ***SECPS****. Securities and Exchange Commission Practice Section of the AICPA.* *(4-2-03)*~~

14. **Test Delivery Service Provider**. Prometric is the contract vendor that delivers the computer-based CPA Examination. (3-16-04)

15. **Verification Of Employment And Experience Evaluation Form**. Work experience verification form. (4-2-03)

16. **Year Of Review**. The calendar year during which a peer review is conducted. (4-2-03)

17. **Year Under Review**. The twelve-month (12) period that is reviewed by the reviewers. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

606. REPORTING TO THE BOARD (RULE 606).

01. **Firm Registration Form**. All firms, whether or not they perform any of the services set out in Rule 602, shall annually file a firm registration report no later than September 30. The registration shall be on such form as prescribed by the Board. Firm registrations filed after September 30 are subject to penalty for non-compliance pursuant to Rule 703. (4-2-03)

02. **Peer Review** ~~***Acceptance Letter***~~ **Documentation**. A firm which has undergone peer review will file a copy of the peer review report, letter of comments if any, letter of response if any, and letter accepting the review report ~~*from*~~ issued by the administering organization. The letter will be filed within thirty (30) days after receipt. The Board reserves the right to obtain all other information relating to the peer review. ~~*(4-2-03)*~~(____)

607. ADMINISTERING ORGANIZATIONS (RULE 607).
This section shall not require any licensee of a firm to become a member of any administering organization. Qualified administering organizations which register with, and are approved by the Board based on their adherence to the AICPA Peer Review minimum standards, shall include the: (4-2-03)

01. **Monitoring Organizations**. AICPA practice monitoring organizations such as the ~~*SEC Practice Section (SECPS)*~~ Center for Public Company Audit Firms (CPCAF). ~~*(4-2-03)*~~(____)

02. **Peer Review Program**. Peer review program of the American Institute of Certified Public Accountants (AICPA). (4-2-03)

03. **State CPA Societies**. State CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations which meet the minimum standards. (4-2-03)

04. **National Society Of Accountants (NSA)**. Peer Review Program of NSA which adheres to the AICPA Peer Review minimum standards. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

611. OVERSIGHT COMMITTEE DUTIES FOR NON-~~*SECPS*~~ CPCAF ADMINISTERING ORGANIZATIONS (RULE 611).
The oversight procedures to be performed by the committee in monitoring non-~~*SECPS*~~ CPCAF administering organizations may consist of the following: ~~*(4-2-03)*~~(____)

01. **Visit The Administering Organization Annually**. During such visit, Oversight Committee may:

(4-2-03)

a. Meet with the organization's peer review committee during the committee's consideration of peer review documents. (4-2-03)

b. Review the organization's procedures for administering the peer review program. (4-2-03)

c. Review, on the basis of a random selection, a number of reviews performed by the administering organization. The review shall include, at a minimum, a review of the report on the peer review, the letter of comments (if any), the firm's response to the matters discussed in the letter of comments, the administering organization's acceptance letter outlining any additional corrective or monitoring procedures, and the working papers on the selected reviews. The purpose of review by Oversight Committee is to determine whether the reviews are being conducted and reported on in accordance with the peer review minimum standards. (4-2-03)

d. Expand the review of peer review documents if significant deficiencies, problems, or inconsistencies are encountered during the review of the materials. (4-2-03)

02. Oversight Report Review. Alternatively, for those organizations participating in the AICPA oversight program in connection with involved state societies, Oversight Committee may obtain and review the oversight program report to insure that the reviews are being conducted and reported on in accordance with the peer review minimum standards. (4-2-03)

03. Annual Recommendation. On the basis of the result of the foregoing procedures, Oversight Committee shall make an annual recommendation to the Board as to the continuing qualifications of the approved administering organizations. (4-2-03)

612. OVERSIGHT COMMITTEE PROCEDURES FOR THE ~~*SECPS*~~ CPCAF (RULE 612).
Where the administering organization is the ~~*SECPS*~~ CPCAF, the Oversight Committee shall review the published annual report of the monitoring organization. The Oversight Committee shall conclude whether the procedures carried out by the monitoring organization and the disclosures contained in the annual report are indicative of an acceptable level of oversight. Based on the results of its review, Oversight Committee shall make an annual recommendation to the Board as to the continuing qualifications of ~~*SECPS*~~ CPCAF as an approved administering organization. ~~*(4-2-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

615. PROGRAM COSTS AND FEES (RULE 615).
All costs associated with the peer review program will be paid by program participants. The costs of the peer review will be agreed upon between the firm and the administering organization or the reviewing firm. The administrative costs incurred by the Board, including Oversight Committee administrative costs, will be paid through a fee paid by the firms that are subject to peer review as prescribed by Rule 702. Oversight Committee costs incurred in qualifying administering organizations will be paid by the applicant administering organization. ~~*(4-2-03)*~~(____)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM

DOCKET NO. 02-0104-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 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 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

These changes will clarify the requirements for certain products to participate in the voluntary Idaho Preferred™ promotion program. The changes are for wine, honey, honey-related products, nursery products and beef products. These changes have been requested by industry.

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

Industry has requested that the requirements for these products be clarified. The voluntary program is a benefit to industry. This change will allow them to participate immediately.

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: Informal negotiated rulemaking was conducted by the Department. This included an agriculture industry rules advisory committee that met in November, 2003. The specific language being added has been approved by the respective commodity organizations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Laura Johnson, Bureau Chief, at (208) 332-8533.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 9th day of August 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0104-0401

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director shall have the sole authority in determining the eligibility of a product for participation in the program. (3-16-04)

02. General Product Qualifications. Except as specified in this chapter, or by written order of the Director, products must meet or exceed the following criteria: (3-16-04)

a. Fresh produce, commodities, and meat bearing the Idaho Preferred™ logo shall be one hundred percent (100%) Idaho grown or raised. (3-16-04)

b. Processed foods and beverages shall contain a minimum of twenty percent (20%) agricultural content that has been grown or raised in Idaho. The percentage of Idaho agricultural content and the percentage of value added to the product in the state of Idaho, shall total no less than eighty percent (80%) of the total value of the product. Value is determined as a percentage of the wholesale price. (3-16-04)

c. Non-food agricultural products must be at least fifty percent (50%) agricultural content by weight and that agricultural content must have been grown or raised in Idaho. (3-16-04)

03. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred™ program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, shall provide proof of such permission prior to making application with the Department. (3-16-04)

04. Wine. Wines shall contain a minimum of ninety-five percent (95%) Idaho grapes. (11-1-04)T

05. Nursery Stock. Nursery stock shall have been grown in Idaho a minimum of one (1) growing season or growing cycle. (11-1-04)T

06. Beef and Beef Products. Beef and beef products shall come from cattle that: (11-1-04)T

a. Were born, raised and harvested in the United States. No cattle that originate from outside the United States may qualify for the Idaho Preferred™ logo. (11-1-04)T

b. Reside in Idaho at least twelve (12) months prior to harvest. The twelve (12) months need not be contiguous, but must be verifiable. (11-1-04)T

c. Reside their entire lives in Idaho if harvested prior to twelve (12) months of age. (11-1-04)T

d. Are processed in federally inspected plants and meet marbling and age requirements for USDA grade Select or better. (11-1-04)T

07. Apicultural Products. Products produced by honey bees including raw honey, wax, pollen, and propolis shall be one hundred percent (100%) Idaho origin. Processed honey shall be eighty percent (80%) Idaho origin. (11-1-04)T

0~~4~~8. Exceptions. The Director shall have the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-16-04)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is a result of program changes requested by the License Advisory Committee. The current rules require a potential pesticide applicator to wait two (2) weeks before retaking a failed exam after the second attempt and all subsequent failures require a one month waiting period. The industry has expressed concerns that requiring a potential employee to wait fourteen to thirty (14-30) days to retake an exam practically eliminates him from consideration of employment, due to the shortness of the application season. The industry has expressed support for having a one week waiting period, which is what this rule change incorporates. The existing rules affect the potential employment of approximately fifty (50) individuals per year.

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

No fees or charges will be imposed or increased.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted, however these changes were recommended by the Pesticide License Committee, representing the pesticide application industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact George Robinson, Bureau Chief at (208) 332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 8th Day of September, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-0401

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration Of Competence. (3-20-97)

a. Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

b. An applicant shall demonstrate competency in the following areas: (3-20-97)

i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)

iii. Laws, rules, and regulations governing pesticides. (3-20-97)

iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)

v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)

vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)

vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)

viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)

ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)

x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)

(1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)

(2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)

(3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)

(4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)

(5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)

(6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)

(7) Safe handling, attachment, and storage of LPC collars. (3-19-99)

(8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)

(9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, property positioned, and intact. (3-19-99)

(10) Knowledge of alternative controls of predation. (4-5-00)

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)

(2) Read and understand the labeling specific to the LPC. (3-19-99)

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the categories of pesticides they apply. (3-20-97)

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)

ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH). Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (4-5-00)

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/ Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)

c. Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)

d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)

i. Training shall be conducted and certified by the professional applicator who employs the mixer-

loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)

ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

03. Department Examination Procedures. (3-20-97)

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week shall be required before an applicant may retake an examination~~:~~. ~~*(3-20-97)*~~( )

~~*i. One (1) week shall be required for the first failure.* (3-20-97)~~

~~*ii. Two (2) weeks shall be required for the second failure.* (3-20-97)~~

~~*iii. Thirty (30) days shall be required for the third or subsequent failures.* (3-20-97)~~

04. Licensing Periods and Recertification. Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license. (3-20-97)

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. (3-20-97)

06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping. Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.06 - REQUIREMENTS FOR LICENSED DAIRY PLANTS

DOCKET NO. 02-0406-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 change will remove 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".

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:

Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to incorporate the most recent version of the USDA/AMS Milk for Manufacturing Purposes and its Production and Processing, Subpart E. "Requirements for Licensed Dairy Plants".

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi
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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0406-0401

~~***000. -- 099. (RESERVED).***~~

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 37, Chapter 4, Idaho Code. (8-1-04)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is rules of the Department of Agriculture governing IDAPA 02.04.06, "Requirements for Licensed Dairy Plants". (8-1-04)T

02. Scope. This chapter has the following scope: These rules shall govern the requirements for the design, construction, and operation of dairy plants licensed to process milk for manufacturing purposes. The official citation of this chapter is IDAPA 02.04.06.000 et seq. For example, this section's citation is IDAPA 02.04.06.001. (8-1-04)T

002. WRITTEN INTERPRETATIONS.
There are no written interpretations of these rules. (8-1-04)T

003. ADMINISTRATIVE APPEAL.
Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Department of Agriculture under this chapter. (8-1-04)T

~~*1*~~004. ~~*GENERAL*~~ INCORPORATION BY REFERENCE.
~~*The Department of Agriculture hereby*~~ This rule incorporates by reference ~~*and adopts as its own,*~~ the Federal Register Volume 37, Number 68, Part II, Subpart E. "Requirements for Licensed Dairy Plants." ~~*as amended. These regulations may be procured at the State Law Library and the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402*~~ June 17, 2002. Copies of this document may be obtained from the Idaho State Department of Agriculture central office. ~~*(4-1-86)*~~(8-1-04)T

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

04. Telephone Number. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

05. Fax Number. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (8-1-04)T

~~*101*~~007. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.07 - GRADE A CONDENSED/DRY MILK AND WHEY PRODUCTS

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

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

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.

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:

Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to repeal this rule in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, 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 02.04.07 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

DOCKET NO. 02-0408-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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: To adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.

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: Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0408-0401

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules ~~*of the Department of Agriculture*~~ Governing Grade A Milk and Milk Products". ~~*(4-8-94)*~~(8-1-04)T

02. **Scope**. This chapter has the following scope: These rules shall govern procedures for the production, manufacture, distribution, handling, storage, quality and sale of Grade A Milk and Milk Products. The official citation of this chapter is IDAPA 02.04.08.000 et. seq. For example, this Section's citation is IDAPA 02.04.08.001. (4-8-94)

002. WRITTEN INTERPRETATIONS.
~~*There are no w*~~Written interpretations of these rules are contained in the "Indexes of Coded Memoranda" published by the Food and Drug Administration. ~~*(4-8-94)*~~(8-1-04)T

003. ADMINISTRATIVE APPEAL.
Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Department of Agriculture under this chapter. ~~*(4-8-94)*~~(8-1-04)T

~~***004. DEFINITIONS.***~~
~~*The definitions for this chapter are those definitions found in: "Grade A Pasteurized Milk Ordinance," 1993 Revision as amended.* *(4-8-94)*~~

~~***005. -- 099. (RESERVED).***~~

~~*1*~~004. INCORPORATION BY REFERENCE.

~~***01. Title of Documents.***~~ The Idaho State Department of Agriculture incorporates by reference ~~*and adopts as its own,*~~ the U.S. Department of Health and Human Services Public Health Service Food and Drug Administration "Grade 'A' Pasteurized Milk Ordinance," ~~*1993*~~ 2003 Revision~~*as amended, Recommendations of the United States Public Health Service/Food and Drug Administration*~~. Copies of this document may be obtained at the Idaho State Department of Agriculture central office. ~~*(4-8-94)*~~(8-1-04)T

~~***02. Location of Documents****. Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 'C' St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.* *(4-8-94)*~~

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. **Physical Address**. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

02. **Office Hours**. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

03. **Mailing Address**. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

04. **Telephone Number**. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

05. **Fax Number**. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records and are available for inspection and copying at the State Department of Agriculture. (8-1-04)T

~~*101*~~007. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0409-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 removes the "as amended" language and adopts by reference the 2003 Revision of "Methods of Making Sanitation Ratings of Milk Shippers."

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:

Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to remove the "as amended" language and adopts by reference the 2003 Revision of "Methods of Making Sanitation Ratings of Milk Shippers."

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0409-0401

001. TITLE AND SCOPE.

01. **Title**. The title of this chapter is "Rules ~~*of the Department of Agriculture*~~ Governing Methods of Making Sanitation Ratings of Milk ~~*Supplies*~~ Shippers". ~~*(4-8-94)*~~(8-1-04)T

02. **Scope**. This chapter has the following scope: These rules shall govern procedures for the evaluation of the sanitary quality of milk and milk products, dairies, processing facilities as outlined in the Pasteurized Milk Ordinance. The official citation of this chapter is IDAPA 02.04.09.000 et seq. For example, this section's citation is IDAPA 02.04.09.001. (4-8-94)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEAL.
Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. ~~*(4-8-94)*~~(8-1-04)T

~~***004. DEFINITIONS.***~~
~~*The definitions for this chapter are those definitions found in: "Methods of Making Sanitation Ratings of Milk Supplies," 1989 Revision as amended.* *(4-8-94)*~~

~~***005. -- 099. (RESERVED).***~~

~~*1*~~004. INCORPORATION BY REFERENCE.

~~***01. Location of Documents.***~~ The Idaho State Department of Agriculture incorporates by reference ~~*and adopts as its own,*~~ "Methods of Making Sanitation Ratings of Milk ~~*Supplies*~~ Shippers," the ~~*1989*~~ 2003 Revision~~*, as amended*~~. Copies of this document may be obtained at the Idaho State Department of Agriculture central office. ~~*(4-8-94)*~~(8-1-04)T

~~***02. Location of Documents.*** *Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 'C' St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.* *(4-8-94)*~~

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. **Physical Address**. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

02. **Office Hours**. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

03. **Mailing Address**. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

04. **Telephone Number**. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

05. **Fax Number**. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records and are available for inspection and copying at the State Department of Agriculture. (8-1-04)T

~~*101*~~007. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.10 - PROCEDURES GOVERNING THE COOPERATIVE STATE-PUBLIC HEALTH SERVICE/ FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

DOCKET NO. 02-0410-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 removes 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”.

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:

Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to remove 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.”

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0410-0401

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "~~*Rules of the Department of Agriculture Governing*~~ Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers". ~~*(4-8-94)*~~(8-1-04)T

02. Scope. This chapter has the following scope. These rules shall govern procedures for developing uniform milk sanitation enforcement methods for certification of interstate and intrastate movement of Grade A milk supplies as outlined in the "Grade A Pasteurized Milk Ordinance". The official citation of this chapter is IDAPA 02.04.10.000 et. seq. For example, this section's citation is IDAPA 02.04.10.001. (4-8-94)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEAL.
Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. ~~*(4-8-94)*~~(8-1-04)T

~~***004. DEFINITIONS.***~~
~~*There are no written definitions for these rules.*~~ ~~*(4-8-94)*~~

~~***005. – 099. (RESERVED).***~~

~~*1*~~004. INCORPORATION BY REFERENCE.

~~***01. Title of Document.***~~ The Idaho State Department of Agriculture hereby incorporates by reference ~~*and adopts as its own,*~~ "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers," ~~*1991*~~ 2003 Revision~~ *as amended*~~. Copies of this document may be obtained at the Idaho State Department of Agriculture central office. ~~*(4-8-94)*~~(8-1-04)T

~~***02. Location of Document.*** *Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 'C' St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.*~~ ~~*(4-8-94)*~~

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

04. Telephone Number. The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

05. **Fax Number**. The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (8-1-04)T

~~101~~007. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.12 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING THE 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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

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.

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: Protection of the public health, safety, or welfare.

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

NEGOTIATED RULEMAKING: Negotiated rule making was not conducted because this is a technical correction to repeal this rule in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, 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 02.04.12 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-0401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-3704, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

October 12, 2004, 7:00 PM
University Place Auditorium
1776 Science Center Drive
Idaho Falls, ID 83401

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.

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

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted with the assistance of the Idaho Elk Breeder's Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi
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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-0401

004. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (4-2-03)

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 22, 1999. (4-2-03)

02. Code of Federal Regulations, Title 9, Part 161, January 1, 200~~2~~4. ~~(4-2-03)~~(____)

03. Code of Federal Regulations, Title 9, Part 55, ~~*February 5, 2002*~~ January 1, 2004. ~~(4-2-03)~~(____)

04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, ~~*February 5, 2002*~~ January 1, 2004. ~~(4-2-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 200~~2~~4, to perform functions required by cooperative state-federal animal disease control and eradication programs. ~~(4-2-03)~~(____)

02. Administrator. Administrator of the Division of Animal Industries or his designee. (4-2-03)

03. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

04. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

05. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

06. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

07. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)

08. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)

09. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)

11. **Commingling**. Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)

12. **Custom Exempt Slaughter Establishment**. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

13. **CWD-Adjacent Herd**. A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. ~~*(4-2-03)*~~( )

14. **CWD-Exposed Animal**. A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)

15. **CWD-Exposed Herd**. A herd of cervidae in which no animals are exhibiting signs of CWD, but: (4-2-03)

a. An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)

b. A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)

c. Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. ~~*(4-2-03)*~~( )

16. **CWD-Positive Cervid**. A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)

17. **CWD-Positive Herd**. A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)

18. **CWD-Suspect Cervid**. A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

19. **CWD-Suspect Herd**. A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

20. **Department**. The Idaho State Department of Agriculture. (4-2-03)

21. **Death Certificate**. A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. ~~*(4-2-03)*~~( )

22. **Designated Epidemiologist**. A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)

23. **Director**. The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)

24. **Disposal**. Final disposition of dead cervidae. (4-2-03)

25. **Division**. Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)

26. **Domestic Cervidae**. Fallow deer (Dama dama), elk (Cervus elaphus) or reindeer (Rangifer

tarandus) owned by a person. (4-2-03)

27. Domestic Cervidae Approved Feedlot. A domestic cervidae ranch, which is a confined dry-lot area, where selected domestic cervidae can be secured and isolated from all other domestic and wild cervidae and livestock for the purpose of feeding for slaughter only with no provisions for grazing. (4-2-03)

28. Domestic Cervidae Ranch. A premises where domestic cervidae are held or kept, including multiple premises under common ownership. ~~(4-2-03)~~(____)

29. Electronic Identification. A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (____)

~~29~~30. Escape. Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)

3~~0~~1. Federal Animal Health Official. An employee of USDA~~,~~/APHIS~~,~~/VS who is authorized to perform animal health activities. ~~(4-2-03)~~(____)

3~~1~~2. Herd of Origin. A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

3~~2~~3. Herd Status. Classification of a cervidae herd with regard to CWD. (4-2-03)

3~~3~~4. Intrastate Movement Certificate. A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)

3~~4~~5. Individual Herd Plan. A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-2-03)

3~~5~~6. Limited Contact. Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

3~~6~~7. Official CWD Test. A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

3~~7~~8. Official Identification. Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

3~~8~~9. Operator. A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)

~~39~~40. Owner. The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)

4~~0~~1. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

4~~1~~2. Premises. The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

4~~2~~3. Quarantine. An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

4~~3~~4. Quarantine Facility. A confined area where selected domestic cervidae can be secured and

isolated from all other cervidae and livestock. (4-2-03)

~~44~~5. Reidentification. The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)

~~45~~6. Restrain. The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)

~~46~~7. Restricted Movement Permit. An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)

~~47~~8. Source Herd. A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

~~48~~9. State Animal Health Official. The Administrator, or his designee. (4-2-03)

~~49~~50. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

5~~0~~1. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)

5~~1~~2. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)

5~~2~~3. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

5~~3~~4. Wild Cervidae. Any cervid animal not owned by a person. (4-2-03)

55. Wild Ungulate. Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (____)

56. Wild Ungulate Cooperative Herd Plan. A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (____)

(BREAK IN CONTINUITY OF SECTIONS)

020. LOCATION OF DOMESTIC CERVIDAE.
Any person who owns or has control of domestic cervidae in Idaho which are not located on a domestic cervidae ranch, which is in compliance with the applicable provisions of this chapter, or on an AZA accredited or USDA licensed facility in compliance with this chapter, is in violation of these rules. (4-2-03)

01. Department Action. In addition to any other administrative or civil action, the department may seize, require removal from the state, require removal to a domestic cervidae ranch that is in compliance with the provisions of this chapter, or require disposal of any domestic cervidae that are not located on a domestic cervidae ranch, an AZA accredited facility, or a USDA licensed facility which is in compliance with the provisions of this chapter. (4-2-03)

02. Reindeer. Reindeer shall not be owned, possessed, propagated or held in Idaho north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (4-2-03)

03. **Exceptions**. The Administrator may grant exceptions from the provisions of Section 020 on a case specific basis. (4-2-03)

04. **Natural Disasters**. Damage caused to domestic cervidae ranch facilities by natural disasters shall not constitute a violation of this chapter, provided that the owner or operator begins any necessary repairs immediately upon discovering the damage, acts expeditiously, as determined by the Administrator, to complete any necessary repairs and reports the extent and cause of any damage to the Division within twenty-four (24) hours of the ~~*occurrence*~~ discovery of the damage. ~~*(4-2-03)*~~( )

021. OFFICIAL IDENTIFICATION.
All domestic cervidae shall be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (4-2-03)

01. **Reporting of Identification**. The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified shall be reported to the Administrator, in writing, by the owner or operator. (4-2-03)

02. **Identification Assigned**. Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be reidentified in accordance with Section 023. (4-2-03)

03. **Progeny**. All progeny of domestic cervidae shall be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (4-2-03)

04. **Visible Identification**. At least one (1) of the official types of identification used shall be visible from one hundred and fifty (150) feet. ( )

022. TYPES OF OFFICIAL IDENTIFICATION.
All domestic cervidae shall be individually identified by two (2) of the following types of official identification. (4-2-03)

01. **Official USDA Eartag**. (4-2-03)

02. **Tattoo**. Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied to either the ear or escutcheon. ~~*(4-2-03)*~~( )

03. ~~***Microchip****. A microchip approved by the Administrator, in cooperation with the Idaho Brand Department, with an identifying number/frequency that has been recorded with the division. The owner of the domestic cervidae shall provide the microchip reader.*~~ **Electronic Identification**. A form of electronic identification, approved by the Administrator. ~~*(4-2-03)*~~( )

04. **Official NAEBA Eartag**. (4-2-03)

05. **Official ISDA Cervidae Program Eartag**. A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (4-2-03)

06. **Official HASCO Brass Lamb Tag**. This brass lamb tag shall be engraved with farm name and individual animal identification number. (4-2-03)

07. **Freeze Brands**. Legible, freeze brands which uniquely identify the individual domestic cervid. ( )

08. **Other Identification**. Other forms of unique individual identification approved by the Administrator. ( )

(BREAK IN CONTINUITY OF SECTIONS)

026. WILD CERVIDAE.
Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch. (4-2-03)

01. Duty of Ranch Owner. It shall be the duty of owners of all domestic cervidae ranches to take precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter fence of any domestic cervidae ranch. (4-2-03)

02. Notification Of Administrator. All owners or operators of domestic cervidae ranches shall notify the Administrator within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (4-2-03)

03. Failure to Notify the Administrator. The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (4-2-03)

04. Idaho Department of Fish and Game. Upon receiving notification that wild cervidae are on a domestic cervidae ranch the Administrator shall notify the Idaho Department of Fish and Game. (4-2-03)

05. Wild Ungulate Cooperative Herd Plan. The Idaho Department of Fish and Game shall cooperate with the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the disposition of the wild cervidae or wild ungulates. ( )

(BREAK IN CONTINUITY OF SECTIONS)

100. DOMESTIC CERVIDAE RANCHES.
In order to prevent the introduction or dissemination of diseases, and to control or eradicate diseases, all domestic cervidae ranches shall comply with the disease control, facility, and record keeping requirements and all other provisions of this chapter. (4-2-03)

01. Each Premises. Each separate premises where domestic cervidae are kept or held shall comply with all of the provisions of this chapter. ~~*(4-2-03)*~~( )

02. Vehicle Access. Domestic cervidae ranches shall have motorized vehicle access to the restraining system on each premises, during the portion of the year that cervidae are held or kept on the premises, adequate to facilitate disease prevention and control as determined by the Administrator. ~~*(4-2-03)*~~( )

03. Premises Registration. Each premises where domestic cervidae are kept or held shall be registered with the Division and assigned a unique, individual number approved by the Administrator. ( )

(BREAK IN CONTINUITY OF SECTIONS)

202. INVENTORY VERIFICATION.
State or federal animal health officials shall verify all domestic cervidae ranch inventories of animals held and individual animal identification annually. (4-2-03)

01. ~~***Bangle Tag***~~ **Visible Identification**. Individual animal identification verification may be accomplished by visually noting the ~~*bangle tag or other readily visible identification on each animal so long as this identification is correlated with two (2) forms of official identification on the inventory report and permanent domestic cervidae ranch records*~~ unique official visible identification. The Administrator may, on a case by case basis, grant written permission for ranch specific unique bangle tags to be used for official identification.

~~*(4-2-03)*~~(____)

02. Duty to Gather and Restrain. It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae, which state or federal animal health officials determine are not readily identifiable, for inventory verification purposes. The Administrator shall determine the suitability of the restraint system. (4-2-03)

203. CHANGE OF ADDRESS.
Owners of domestic cervidae ranches shall notify the Division in writing, within thirty (30) days, of any change in the address of the owners of domestic cervidae, the owner of the domestic cervidae ranch, or the domestic cervidae ranch. ~~*(4-2-03)*~~(____)

204. ESCAPE OF DOMESTIC CERVIDAE.
~~*When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator within twenty-four (24) hours of the escape.*~~ It shall be the duty of each owner or operator of a domestic cervidae ranch to take all reasonable actions to prevent the escape of domestic cervidae from a domestic cervidae ranch. ~~*(4-2-03)*~~(____)

01. Notification of Escape. When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator by phone, facsimile, or other means approved by the administrator within twenty-four (24) hours of the discovery of the escape. (____)

0~~1~~2. Duty to Retrieve Escaped Cervidae. It shall be the duty of each owner or operator of a domestic cervidae ranch to retrieve or otherwise bring under control all domestic cervidae that escape from a domestic cervidae ranch. (4-2-03)

0~~2~~3. Fish and Game. The Administrator shall notify the Idaho Department of Fish and Game of each escape. (4-2-03)

0~~3~~4. Sheriff and State Brand Inspector. When domestic cervidae escape from a domestic cervidae ranch and the owner or operator is unable to retrieve the animals within twenty-four (24) hours, the Administrator may notify the county sheriff or the state brand inspector of the escape pursuant to Title 25, Chapter 23, Idaho Code. (4-2-03)

0~~4~~5. Capture. In the event that the owner or operator of a domestic cervidae ranch is unable to retrieve escaped domestic cervidae in a timely manner, as determined by the Administrator, the Administrator may effectuate the capture of the escaped domestic cervidae to ensure the health of Idaho's livestock and wild cervidae populations. (4-2-03)

0~~5~~6. Failure to Notify. Failure of any owner or operator of a domestic cervidae ranch to notify the Administrator within twenty-four (24) hours of the discovery of an escape of domestic cervidae is a violation of this chapter. ~~*(4-2-03)*~~(____)

07. Taking of Escaped Domestic Cervidae. A licensed hunter may legally take domestic cervidae which have escaped from a domestic cervidae ranch only under the following conditions: (____)

a. The domestic cervidae has escaped and has not been in the control of the owner or operator of the domestic cervidae ranch for more than seven (7) days; and (____)

b. The hunter is licensed and in compliance with all the provisions of the Idaho Department of Fish and Game rules and code. (____)

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.
The death of a domestic cervidae over one (1) year of age shall be reported by the owner or operator to the division ~~*by telephone, electronic mail, or facsimile transmission of a CWD sample submission form/death certificate*~~:
~~*(4-2-03)*~~(____)

01. **Reports**. The initial report of a cervidae death may be made by telephone or electronic mail, and then followed by the submission of CWD sample submission form/death certificate. ( )

02. **Submission of Death Certificates**. CWD sample submission forms/death certificates shall be submitted to the division by regular mail, facsimile, or by other means as approved by the Administrator. ( )

0~~1~~3. **Domestic Cervidae Ranches**. The owner or operator of a domestic cervidae ranch shall notify the division within five (5) business days of when the owner or operator knew or reasonably should have known of the death. (4-2-03)

0~~2~~4. **Approved and Custom Exempt Slaughter Establishments**. The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

208. INTRASTATE MOVEMENT CERTIFICATE.
All owners of domestic cervidae ranches who move cervidae, from one premises to another, including movement from one (1) premises to another premises owned, operated, leased, or controlled by the owner, within the state of Idaho shall submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the ~~*consignor*~~ owner, within five (5) business days of the movement. The Administrator shall provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. ~~*(4-2-03)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.
All live domestic cervidae moving from one premises to another premises within the state of Idaho shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: ~~*(4-2-03)*~~( )

01. **TB Test**. An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules", effective January 22, 1999, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (4-2-03)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (4-2-03)

c. Those domestic cervidae moving from one premises to another premises owned, operated, leased, or controlled by the same person. ~~*(4-2-03)*~~( )

02. **Intrastate Movement Certificate**. All intrastate movements of live domestic cervidae, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, shall be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. ~~*(4-2-03)*~~( )

03. **Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities**. Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities shall comply fully with all of the provisions of this chapter. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

304. QUARANTINES.
All domestic cervidae animals or herds that are determined to be exposed to, or infected with, any disease that constitutes an emergency, as provided in Title 25, Chapter 2, Idaho Code, shall be quarantined. (4-2-03)

01. Infected Herds. Infected herds or animals shall remain under quarantine until such time that the herd has been completely depopulated and the premises has been cleaned and disinfected as provided by the Administrator, or the provisions for release of a quarantine established in these rules have been met. ~~(4-2-03)~~(____)

02. Exposed Herds. The quarantine for exposed herds or animals may take the form of a hold-order which shall remain in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (4-2-03)

03. Validity of Quarantine. The quarantine shall be valid whether or not acknowledged by signature of the owner. (4-2-03)

305. DECLARATION OF ANIMAL HEALTH EMERGENCY.
The Director is authorized to declare an animal health emergency. (4-2-03)

01. Condemnation of Animals. In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to an animal health emergency disease may be condemned and destroyed. (4-2-03)

02. Indemnity. Any indemnity shall be paid in accordance with Sections 25-212 and 25-213, Idaho Code. (4-2-03)

03. Notification to Administrator. Every owner of cervidae, every breeder or dealer in cervidae, every veterinarian, and anyone bringing cervidae into this state who observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice~~,~~ to the Administrator by telephone, ~~or~~ facsimile, ~~to~~ or other means as approved by the Administrator. ~~(4-2-03)~~(____)

04. Failure to Notify. Any owner of cervidae who fails to report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of the animal health emergency. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

501. COLLECTION OF SAMPLES FOR CWD TESTING.
Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, shall collect brain or other tissue samples for CWD testing. Samples shall be collected immediately upon discovery of the death of a domestic cervid. (4-2-03)

01. Brain Samples. Only ~~P~~persons trained by state or federal animal health officials, and approved by the Administrator, may remove the brain stem containing the obex portion for submission as the sample for CWD testing. ~~(4-2-03)~~(____)

02. Submission of Head. Only ~~P~~persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing. ~~(4-2-03)~~(____)

03. Handling of Samples. All CWD samples shall be handled in a manner that prevents degradation of the sample. (4-2-03)

04. Sample Submission Time. Fresh samples for CWD testing shall be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples shall be submitted, to an approved laboratory, within five (5) business days of the date of collection. (4-2-03)

05. Non-Testable or Samples That do not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if: (4-2-03)

a. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or (4-2-03)

b. The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain appropriate tissues for CWD testing. (4-2-03)

c. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin. ( )

06. Failure to Submit Samples for CWD Testing. An owner or operator of a domestic cervidae ranch that fails to submit samples for CWD testing as required in this chapter is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

505. DURATION OF CWD QUARANTINE.
Quarantines imposed because of CWD in accordance with this chapter shall remain in effect until one (1) of the following criteria are met: (4-2-03)

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd plan and all provisions of these rules, during which there was no evidence of CWD. (4-2-03)

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-2-03)

03. Source Herds and Herds of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (4-2-03)

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-2-03)

05. Adjacent Herds. ~~*As*~~ The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. ~~*(4-2-03)*~~( )

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years shall construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (4-2-03)

07. Complete Depopulation. The quarantine may be released after: (4-2-03)

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (4-2-03)

b. The premises have been free of all livestock as specified in an individual herd plan approved by the Administrator; and (4-2-03)

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (4-2-03)

08. Disposal of Positive or Exposed Cervidae. All CWD positive or exposed domestic cervidae shall be disposed of as directed by the Administrator. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

600. DOMESTIC CERVIDAE APPROVED FEEDLOTS.
Domestic cervidae may be fed for slaughter in an Idaho Domestic Cervidae Approved Feedlot for a time period of up to six (6) months, except for domestic cervidae calves born in the feedlot. (4-2-03)

01. Grazing. No Domestic Cervidae Approved Feedlot shall permit pasturing or grazing. (4-2-03)

02. Maintain All Original Identification. All original animal identification devices shall be maintained and records of new identification devices shall show original identification and disposition. These records shall be maintained for three (3) years following disposition of the domestic cervidae for animal health tracing purposes. (4-2-03)

03. All Cervidae Shall be Separated by Sex. All cervidae on the facility shall be penned separately by sex so that no breeding can occur. (4-2-03)

04. Pregnant Female Cervidae Allowed to Calve. Female cervidae, which are pregnant at the time of entry into the feedlot, may be allowed to calve in the feedlot. All calves may remain in the feedlot up to sixteen (16) months of age prior to moving to an approved slaughter establishment. (4-2-03)

05. All Cervidae Leaving the Facility. All cervidae, including calves born to female cervidae in the feedlot, leaving the facility shall move only to slaughter at an approved slaughter establishment. ~~*(4-2-03)*~~( )

06. Escapes. All domestic cervidae that escape from a Domestic Cervidae Approved Feedlot shall immediately be destroyed. The owner or operator of the Domestic Cervidae Approved Feedlot shall notify the Administrator by phone, facsimile, or other means as approved by the Administrator within twenty-four (24) hours of the first knowledge of the escape. ~~*(4-2-03)*~~( )

07. Domestic Cervidae Deaths. All deaths of domestic cervidae shall be reported, by the owner or operator of the domestic cervidae feedlot, to the Administrator within twenty-four (24) hours of the death. (4-2-03)

08. CWD Testing. The owner or operator of the domestic cervidae feedlot shall collect and submit tissue samples for CWD testing in accordance with Section 501 for all cervidae that enter the feedlot. (4-2-03)

09. Notification of Disease. Every owner or operator of a Domestic Cervidae Approved Feedlot that observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, by telephone or facsimile to the Administrator. (4-2-03)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.25 - RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

DOCKET NO. 02-0425-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-207A, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

October 12, 2004 4:00 p.m.
University Place Auditorium
1776 Science Center Drive
Idaho Falls, ID 83401

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule designates an area of eastern Idaho where the private feeding of big game animals is prohibited for disease control purposes, and how the interaction of livestock and big game animals on feedlines will be regulated.

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

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because this is a re-write of a rule that was rejected by the 2004 Legislature and the proposed rule has been changed to reflect the discussions before the germane committees.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi
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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0425-0401

IDAPA 02, TITLE 04, CHAPTER 25

02.04.25 - RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 25, Chapter 2, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.25, "Rules Governing Private Feeding of Big Game Animals". ( )

02. Scope. These rules govern the private feeding of big game animals in areas of the state of Idaho that have been designated for regulation. The official citation of this chapter is IDAPA 02.04.25.000 et seq. For example, this Section's citation is IDAPA 02.04.25.001. ( )

002. WRITTEN INTERPRETATIONS.
There are no written interpretations of these rules. ( )

003. ADMINISTRATIVE APPEAL.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ( )

004. INCORPORATION BY REFERENCE.
This chapter does not incorporate any documents by reference. ( )

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. ( )

04. Telephone Number. The telephone number for the Division of Animal Industries at the central office is (208) 332-8540. ( )

05. Fax Number. The fax number for the Division of Animal Industries at the central office is (208) 334-4062. ( )

006. IDAHO PUBLIC RECORDS ACT.
These rules are public records available for inspection and copying at the Central Office of the Idaho State Department of Agriculture. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS.
The following definitions shall apply in the interpretation and enforcement of this chapter. ( )

01. Administrator. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. ( )

02. **Big Game Animals**. All wild cervidae. ( )

03. **Brucellosis**. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. ( )

04. **Cattle**. All bovidae, including domestic bison. ( )

05. **Department**. The Idaho State Department of Agriculture. ( )

06. **Director**. The director of the Idaho State Department of Agriculture or his designee. ( )

07. **Division of Animal Industries**. Idaho State Department of Agriculture, Division of Animal Industries. ( )

08. **Domestic Bison**. All animals in the genus *Bison* that are owned by a person. ( )

09. **Domestic Cervidae**. Elk, fallow deer and reindeer that are owned by a person. ( )

10. **Emergency Feeding**. Feeding of big game animals authorized by IDFG pursuant to IDAPA 13.01.18 "Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission," and IDFG written policies. ( )

11. **Federal Animal Health Official**. An employee of the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. ( )

12. **Livestock**. Cattle, domestic cervidae, domestic bison, sheep, goats, camelids, and horses. ( )

13. **Operator**. The person who has authority to manage or direct a premises or other area where livestock are fed, feed is stored, or the private feeding of big game animals may occur. ( )

14. **Owner**. The person who owns or has financial control of livestock, premises or other areas where livestock are fed, where feed is stored, or where the private feeding of big game animals may occur. ( )

15. **Person**. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. ( )

16. **Premises**. The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. ( )

17. **State Animal Health Official**. The Administrator, or his designee, responsible for disease control and eradication activities. ( )

18. **Supplemental Feed**. Harvested hay, grain, baled straw, or pellet rations. ( )

19. **Wild Cervidae**. All cervidae that are not owned by a person. ( )

011. ABBREVIATIONS.

01. **IDFG**. Idaho Department of Fish and Game. ( )

02. **ISDA**. Idaho State Department of Agriculture. ( )

012. -- 019. (RESERVED).

020. APPLICABILITY.
In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, these rules apply to all persons who purposely or knowingly provide supplemental feed to big game animals within the area designated in Section 100 of these rules, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. ( )

021. -- 099. (RESERVED).

100. EASTERN IDAHO BIG GAME PRIVATE FEEDING PROHIBITION ZONE.
In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, the following portion of Idaho is designated as the eastern Idaho big game private feeding prohibition zone: ( )

01. **Clark County**. All of Clark County east of Interstate Highway 15. ( )

02. **Fremont County**. All of Fremont County. ( )

03. **Teton County**. All of Teton County. ( )

04. **Madison County**. All of Madison County east of Interstate Highway 15. ( )

05. **Jefferson County**. All of Jefferson County east of Interstate Highway 15. ( )

06. **Bonneville County**. All of Bonneville County east of Interstate Highway 15. ( )

07. **Caribou County**. All of Caribou County. ( )

08. **Bear Lake County**. All of Bear Lake County. ( )

101. PRIVATE FEEDING OF BIG GAME ANIMALS PROHIBITED.
No person shall purposely or knowingly provide supplemental feed to big game animals within the eastern Idaho big game private feeding prohibition zone, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. ( )

102. INCIDENTAL GRAZING.
Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices shall not be considered providing supplemental feed. ( )

103. -- 119. (RESERVED).

120. INCIDENTAL FEEDING.
Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this chapter, provided the owner and operator of the premises where the livestock are being fed cooperate with the ISDA, as determined by the Administrator, to facilitate conducting big game management activities that will eliminate the feeding of big game animals. ( )

121. SPATIAL SEPARATION.
When requested by the Administrator, IDFG shall cooperate with ISDA in maintaining spatial separation of livestock and big game animals. ( )

122. -- 149. (RESERVED).

150. MANAGEMENT ACTIVITIES.
During normal business hours, state and federal animal health officials are authorized to enter premises and other areas within the eastern Idaho big game private feeding prohibition zone, where big game animals are being provided with supplemental feed, or there is feedline contact between livestock and big game animals, to conduct big game

management activities. When requested by the Administrator, IDFG shall assist in conducting big game management activities, which include but are not limited to: ( )

01. **Trapping**. Trapping big game animals. ( )

02. **Testing**. Testing big game animals for diseases. ( )

03. **Moving Animals**. Transferring big game animals to areas where there is suitable winter habitat. ( )

04. **Hazing**. Hazing or dispersing big game animals. ( )

05. **Supplemental Feed**. Making supplemental feed unavailable or unpalatable to big game animals. ( )

06. **Fencing**. Providing fencing materials to facilitate the separation of cattle and big game animals. ( )

151. -- 989. (RESERVED).

990. PENALTIES FOR VIOLATIONS.
Any person who violates the provisions of this chapter is subject to the penalties provided in Section 25-219, Idaho Code. ( )

991. -- 994. (RESERVED).

995. MINOR VIOLATIONS.
Nothing in this chapter shall be construed as requiring ISDA to report minor violations when ISDA believes that the public interest will be best served by suitable warnings or other administrative action. ( )

996. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 25, 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 25-2724, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Incorporates 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, will also be 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, will also be added.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This change will adopt the 2004 edition of "The Official Publication of the Association of American Feed Control Officials (AAFCO)" and the Merck Index. These are standard reference manuals used by regulatory officials in the review and registration of animal feed products. They provide consistency between the states in the registration of animal feed products.

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 due to the nature of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-0401

IDAPA 02, TITLE 06, CHAPTER 02

RULES ~~*UNDER*~~ PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 25-2724, Idaho Code. (8-25-04)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.02, "Rules Pertaining to the Idaho Commercial Feed Law". (8-25-04)T

02. Scope. These rules specify general commercial feed label and ingredient requirements, special requirements for cottonseed and procedures concerning detained commercial feedstuffs. (8-25-04)T

002. WRITTEN INTERPRETATIONS.
There are no written interpretations of these rules. (8-25-04)T

003. ADMINISTRATIVE APPEAL.
There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (8-25-04)T

004. INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (8-25-04)T

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the "2004 Official Publication" of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. (8-25-04)T

02. The Merck Index. The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

005. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-25-04)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-25-04)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (8-25-04)T

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (8-25-04)T

05. Fax Number. The fax number of the central office is (208) 334-2283. (8-25-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (8-25-04)T

00~~0~~7. -- 009. (RESERVED).

010. DEFINITIONS AND TERMS.
~~*The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials, (AAFCO) except as the Director designates otherwise in specific cases. The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, except as the Director designates otherwise in specific cases. The definitions and terms referred to are listed in the Official Publication of the Association of American Feed Control Officials. Copies are on file at: Idaho Department of Agriculture, Idaho State Law Library, and Idaho Legislative Council.*~~ ~~*(4-21-92)*~~

01. Hay. The aerial portion of grass or herbage especially cut, cured and baled or stacked for animal feeding, without further processing. (8-25-04)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0402

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2724, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a non-technical explanation of the substance and purpose of the proposed rulemaking:

This change will adopt 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.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-0402

004. INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary

Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (8-25-04)T

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the "200~~4~~5 Official Publication" of 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 6, Idaho Code, and any rule promulgated thereunder; or ~~*(8-25-04)T*~~(____)

02. The "Merck Index. The "2001 Merck Index," 13th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-0402

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a non-technical explanation of the substance and purpose of the proposed rulemaking:

This change will adopt 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.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi
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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-0402

004. INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the "2004~~4~~5 Official Publication" of 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 6, Idaho Code, and any rule promulgated thereunder; or
~~*(7-28-04)T*~~(____)

02. The "Merck Index. The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (7-28-04)T

IDAPA 02 - IDAHO 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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 25, 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 25-2204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Incorporate by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Official 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, will also be incorporated by reference into the rule.

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

This change will adopt the 2004 edition of The Official Publication of the Association of American Plant Food Control Officials (AAPFCO) and the Merck Index. These are standard reference manuals used by regulatory officials in the review and registration of soil and plant amendment products. They provide consistency between the states in the registration of soil and plant amendment products.

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 due to the nature of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-0401

004. ~~*(RESERVED)*~~ INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (8-25-04)T

01. The Association Of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the "2004 Official Publication" of 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. (8-25-04)T

02. The Merck Index. The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

IDAPA 02 - IDAHO 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 - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a non-technical explanation of the substance and purpose of the proposed rulemaking:

This change will adopt 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 soil and plant amendment products.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 06-0641-0401

004. INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary

Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (8-25-04)T

01. The Association Of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the "200~~4~~5 Official Publication" of 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. ~~*(8-25-04)T*~~(____)

02. The Merck Index. The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

IDAPA 03 - STATE ATHLETIC COMMISSION

03.01.01 - RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 03-0101-0401

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 54-406, 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 August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 21 and 22.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Katsilometes, Commissioner, at (208) 221-6534.

DATED this 25th day of August, 2004.

Tom Katsilometes
Commissioner
Idaho State Athletic Commission
C/O Mutual Insurance Associates, Inc.
1575 Baldy Ave.
Pocatello, ID 83201
Phone: (208) 221-6534
Fax: (208) 237-9697

IDAPA 03, TITLE 01, CHAPTER 01

RULES OF THE STATE ATHLETIC COMMISSION

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 21 and 22.

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 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS AND STANDARDS FOR PRIVATE CONTRACT PROVIDERS

DOCKET NO. 05-0101-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This is a repeal of this chapter. The chapter is being rewritten in a subsequent rulemaking that is being published in this Bulletin following this notice.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the chapter was outdated and rewritten.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384
Fax: 334-5120

IDAPA 05.01.01 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES FOR CONTRACT PROVIDERS

DOCKET NO. 05-0101-0402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A new rules chapter is being adopted to replace the existing rules chapter, IDAPA 05.01.01. The new chapter consists of some former rules that were retained resulting in an improvement in format and language, standards criteria for good care and treatment of juveniles placed with contract providers, and standards criteria toward managing risk.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Department held public hearings around the state prior to temporary rule adoption to generate feedback from contract providers and any other interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384
Fax: 334-5120

THE FOLLOWING IS THE TEXT OF DOCKET NO. 05-0101-0402

IDAPA 05
TITLE 01
CHAPTER 01

05.01.01 - RULES FOR CONTRACT PROVIDERS

000. LEGAL AUTHORITY.

01. Section 20-504(2), Idaho Code. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards. ( )

02. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. ( )

03. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. ( )

04. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers. ( )

05. Section 20-531(4), Idaho Code. Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. ( )

06. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. ( )

07. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.01, "Rules for Contract Providers," IDAPA 05, Title 01, Chapter 01. ( )

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. ( )

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 400 N. 10th St., 2nd Floor, P.O. Box 83720, Boise, Idaho 83720-0285. ( )

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. ( )

004. INCORPORATION BY REFERENCE.

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

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The Idaho Department of Juvenile Corrections is located at 400 N. 10th St., 2nd Floor, Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections' rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. The facsimile number of the office is (208) 334-5120. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the contract providers are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS.
As used in this chapter: ( )

01. Adult. A person eighteen (18) years of age or older. ( )

02. Assessment. The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the service plan. ( )

03. Clinical Services Administrator. Administrative person who has oversight of the department's clinical services division. Supervises the regional clinical supervisors and works with the regional superintendents in the maintenance and development of treatment programs. ( )

04. Clinical Supervisor. Person who supervises juvenile services coordinators and clinicians in assigned regions. This person is responsible for recommending releases from department custody and approving transfers in collaboration with the clinical services administrator, and regional superintendent. This responsibility also includes oversight of the regional observation and assessment process, and assists in the maintenance and development of treatment programs. ( )

05. Commit. Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. ( )

06. Community Treatment Team. A team including the juvenile services coordinator, contract provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. ( )

07. Contraband. Any item not issued or authorized by the contract provider. ( )

08. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. ( )

09. Contract Provider. A residential or nonresidential program under contract with the department to supervise juveniles, provide accountability and competency development in the least restrictive setting, consistent with public safety. ( )

10. Court. Means district court or magistrate's division thereof. ( )

11. Department. The Idaho Department of Juvenile Corrections. ( )

12. Detention. Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. ( )

13. **Director**. The director of the Idaho Department of Juvenile Corrections. ( )

14. **Facility**. The physical plant associated with the operation of residential or nonresidential programs. ( )

15. **Facility Treatment Team**. The group of staff employed by the contract provider who have input into developing the juvenile's service implementation plan; who provide direct services to juveniles; and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. ( )

16. **Health Assessment**. The purpose of a health assessment is to thoroughly review and determine a juvenile's comprehensive health needs. This information is used to develop the medical terms of a juvenile's service plan. ( )

17. **Health Screening**. The purpose of a health screening is to quickly identify a juvenile's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. ( )

18. **Health Services**. Health services are defined as including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. ( )

19. **Incident Report**. A written document reporting any occurrence or event, or any other incident which threatens the safety and security of staff, juveniles or others, or which threatens the security of the program and which requires a staff response. ( )

20. **Interns**. A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juveniles in the department's custody or their families, under direct supervision of qualified staff. ( )

21. **Judge**. A district judge or a magistrate. ( )

22. **Juvenile**. A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. ( )

23. **Juvenile Offender**. A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. ( )

24. **Juvenile Records**. Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. ( )

25. **Juvenile Services Coordinator**. An individual employed by the department who is responsible for the monitoring of therapeutic or rehabilitative treatment services to juveniles participating in a treatment program. This responsibility includes monitoring service plans and progress reports and sharing information with family, community, courts, and with other department employees. ( )

26. **Legal Custody**. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. ( )

27. **Legal Guardian**. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. ( )

28. **Mechanical Restraints**. Any method of physical control of a juvenile which involves the use of devices to restrict physical activity. ( )

29. **Mental Health Assessment**. The purpose of a mental health assessment is to thoroughly review and determine a juvenile's comprehensive mental health needs. This information is used to develop the medical terms of a juvenile's service plan. ( )

30. **Mental Health Screening**. The purpose of mental health screening is to quickly identify a juvenile's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. ( )

31. **Nonresidential Programs**. Programs providing services to juveniles in the custody of the department and their families in which the juvenile continues to live with a parent or guardian and not in a residential care facility. ( )

32. **Observation and Assessment Program**. A residential or nonresidential program designed to complete assessments of juveniles in the custody of the department. ( )

33. **Physical Restraint**. Any method of physical control of a juvenile which involves staff touching or holding a juvenile to limit or control his actions. ( )

34. **Quality Assurance**. Department employees responsible for overseeing contract providers' compliance with contract terms and these rules. ( )

35. **Region**. Subunits of the department organized by geographical areas and including all services and programs offered by the department in that area. ( )

36. **Regional Facility**. Department operated juvenile correctional centers located in each region of the state. ( )

37. **Reintegration Plan**. That part of the juvenile's service plan which specifically addresses the terms, conditions and services to be provided as the juvenile moves to a lower level of care or leaves the custody of the department. ( )

38. **Release from Department Custody**. Refers to the termination of the department's legal custody of a juvenile. ( )

39. **Restitution**. Financial payment or service work intended to reimburse victims for the cost of damage or harm caused by a juvenile. Restitution may be court ordered or may be imposed following a formal disciplinary process within a contract provider program. ( )

40. **Restricted Clinical Information**. Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, and psychological testing, or other legally confidential information. ( )

41. **Room Confinement**. Instances in which a juvenile is confined in the room in which he usually sleeps, rather than being confined in an isolation room. ( )

42. **Separation or Isolation**. Any instance when a juvenile is confined alone for over fifteen (15) minutes in a room other than the room in which he usually sleeps. ( )

43. **Service Implementation Plan**. A written document produced by a regional facility or contract provider with input from the community treatment team within thirty (30) days of arrival at regional facility or contract provider. This plan describes interventions and objectives to address the service plan goals in the areas of community protection, accountability, and competency development. ( )

44. **Service Plan**. A written document produced during the observation and assessment period

following commitment to the department that defines the juvenile's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile in areas such as mental health, medical, education, substance abuse, and social skills. ( )

45. **Staffing**. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile's service implementation plan. ( )

46. **Strip Search**. An examination of the juvenile's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the juvenile's clothing while such is not being worn. ( )

47. **Suicide Risk Assessment**. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile attempting suicide, and to apply this information in developing a safety plan for the juvenile. ( )

48. **Suicide Risk Screening**. An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. ( )

49. **Transfer**. Any movement of a juvenile in the custody of the department from one (1) facility to another, including a regional facility, without a release from department custody. ( )

50. **Treatment**. Any program of planned services developed to meet risks and needs of juveniles and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juveniles, staff and the community safe. ( )

51. **Variation**. The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. ( )

52. **Vocational Services**. Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. ( )

53. **Volunteer**. A person from the community who freely chooses to do or provide both direct or indirect services to juveniles or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. ( )

54. **Waiver**. The nonapplication of one (1) or more of these rules based upon a request by the provider and a written decision issued by the department. ( )

55. **Work Program**. A public service work project which employs juveniles at a reasonable wage for the purpose of reimbursing victims of juveniles' delinquent behavior. ( )

011. -- 099. (RESERVED).

100. INITIATION OF SERVICES.
Juveniles are committed to the department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code) and the Interstate Compact on Juveniles (Sections 16-1901 through 16-1910, Idaho Code). ( )

101. WAIVER OR VARIATION.
Minimum program standards established herein shall apply to all services provided by the contract provider. Any waiver or variation from the standards stated in these rules must receive prior written approval from the department and must be attached as a formal amendment to the contract. ( )

102. -- 199. (RESERVED).

200. AUTHORITY TO INSPECT.

01. Inspections. The department shall have the authority to conduct reviews of programs, program operations, and facilities to ensure the contract provider's compliance with these rules. The contract provider shall cooperate with the department's review, and must provide access to the facility and all juvenile records for juveniles in department custody, as deemed necessary by the department. The department may not access individual juvenile records for juveniles not in the custody of the department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available. ( )

02. Written Reports. In order to assist the department in monitoring contract programs for key areas of operational performance, each contract provider will be required to submit a written, quarterly report to the department's quality assurance staff. These reports may be submitted by facsimile, mail, or electronically within thirty (30) calendar days of the end of each quarter. The reports shall include, at a minimum, the following information: ( )

a. Changes made in the population served, program design or functioning, and table of organization, including specific management and administrative staff who may have left the program; ( )

b. Staff turnover during the quarter; ( )

c. Number of reportable incidents of the type listed below: ( )

i. Assaults against juveniles; ( )

ii. Assaults against staff; ( )

iii. Behavioral and psychiatric emergencies; ( )

iv. Contraband; ( )

v. Escapes; ( )

vi. Injuries or illness requiring signficant medical attention; ( )

vii. Restraints; ( )

viii. Separation or isolation; ( )

ix. Sexually acting out; and ( )

x. Suicide precautions. ( )

d. Number of hours and topics included in staff training for the quarter; ( )

e. Personal funds, earned income, and restitution for each juvenile in department custody according to Subsection 212.02; ( )

f. A copy of juvenile grievances and resolutions according to Subsection 246.02; and ( )

g. Number of department referrals made and accepted. ( )

03. Additional Reporting Requirements. In situations where the department has determined that the safety, security, or order of a program are at risk, more frequent and more detailed reporting will be required by the director, or designee. ( )

201. COMPLIANCE WITH STATE AND LOCAL CODES AND ORDINANCES.

The contract provider shall maintain compliance with all state and local building, life safety, and zoning requirements. Documentation of compliance shall be made available to the Idaho Department of Juvenile Corrections. ( )

202. COMPLIANCE WITH RULES REQUIREMENTS.
The contract provider shall comply with all relevant child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," as well as the rules of the Idaho Department of Juvenile Corrections. If a conflict exists between department rules, the more restrictive rule applies. Any and all subcontractors and consultants of the contract provider are also subject to these rules. ( )

203. ACCESSIBILITY, GENERAL SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Reasonable Access. The program buildings, parking lots and other facilities shall provide reasonable access as required by the Americans with Disabilities Act and other federal and state laws and regulations. ( )

02. Maintenance. The contract provider shall ensure that all structures are maintained in good repair and are free from hazards to health and safety. The facility grounds shall also be maintained and shall be free from any hazard to health and safety. ( )

03. Written Plan. The program shall have a written plan for preventive and ongoing maintenance of the facility. ( )

04. Safety Program. Each contract provider shall have a designated staff member who is responsible for the safety program at the facility. This individual shall conduct routine inspections of the facility monthly, with copies of the inspections kept on file for review by the department, to identify: ( )

a. Fire safety; ( )

b. Existing hazards; ( )

c. Potential hazards; and ( )

d. The corrective action that should be taken to address these hazards. ( )

05. Emergency Procedures. The contract provider will utilize and maintain a current emergency procedure manual which shall include, at a minimum, procedures pertaining to: ( )

a. Fire safety and escape; ( )

b. Emergency medical care; ( )

c. Notification and filing charges on escape; ( )

d. Incidents of violence within the facility; ( )

e. Suicide prevention; ( )

f. Child abuse reporting; and ( )

g. Sexual abuse disclosures. ( )

204. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the department's requirements for insurance coverage. ( )

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and shall comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. ( )

03. Maintenance and Equipment Checklist. The contract provider shall have a vehicle maintenance and equipment checklist, which shall include a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes, headlights, shall be made immediately. All worn or missing critical equipment shall be replaced immediately, such as tires, jacks, seat belts. ( )

205. TRANSPORTATION.

01. Transportation for Service Plan. It shall be the responsibility of the contract provider to provide all transportation associated with the juvenile's service implementation plan. The family may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile, family, or to the community. ( )

02. Transportation and Notification for Court Proceedings. It is the responsibility of the department to assure the juvenile's appearance in all court proceedings and to arrange transportation as indicated. It is the contract provider's responsibility to immediately notify the juvenile's juvenile services coordinator of court dates and appearances. Contract providers may provide transportation under this section in consultation with the juvenile services coordinator. ( )

03. Arrangements. Arrangements for transportation related to court appearances as well as related to transfer or release of juveniles from department custody shall be made between the contract provider and the department's regional transport coordinator located in the contract provider's region. This communication is facilitated through the juvenile services coordinator. ( )

04. Gender Specific Transportation. In all transport situations there must be at least one (1) assigned staff of the same gender as the juvenile being transported. ( )

05. Transport in Personal Vehicles. Juveniles in the custody of the Idaho Department of Juvenile Corrections shall not be transported in personal vehicles unless an emergency situation exists and is substantiated by documentation. ( )

206. JUVENILE RECORDS.

01. Case Management Documents. The contract provider shall maintain individual files on all juveniles which shall include: ( )

a. Observation and assessment report provided by the department; ( )

b. A copy of the signed Referral Acceptance/Denial Form; ( )

c. Additional assessments, which must be kept separate; ( )

d. Service implementation plans as referred to in Subsection 271.01of these rules; ( )

e. Progress reports as referred to in Subsections 271.07 and 271.08 of these rules; ( )

f. Incident reports as referred to in Subsections 262.02 and 262.03 of these rules; ( )

g. Court documents and dispositions; ( )

h. Professional correspondence; ( )

i. Clinical notes, which must be kept separate; ( )

j. Medical records, which must be kept separate; ( )

k. Educational records and school history, which must be kept separate; ( )

l. Identifying information and physical descriptions; ( )

m. Last known parent or guardian address and telephone number; ( )

n. Date of admittance and projected release from department custody; ( )

o. A copy of the written reintegration plan; and ( )

p. Records of juveniles' earnings and restitution payments. ( )

02. Confidentiality. ( )

a. Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juveniles. ( )

b. All matters relating to confidentiality of juvenile files shall also comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Chapter 1, Sub-Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records." ( )

c. Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. These file folders must be stamped "confidential" on the cover or outside folder. ( )

d. For contract providers that serve sex offenders, individual treatment assignments, such as journals, detailed sexual histories, must be destroyed at the time the juvenile is transferred or released from the program. ( )

03. Automated Records. Automated records shall include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records. The procedure shall also include provisions for backing up automated records. ( )

04. Policies and Procedures. The contract provider shall have written policies and procedures to address the confidentiality of juvenile records. In compliance with HIPAA's privacy regulations, written procedures shall designate a privacy officer who will: ( )

a. Supervise the maintenance of identifiable personal health care information; ( )

b. Serve as custodian of all confidential juvenile records; and ( )

c. Determine to whom records may be released. ( )

05. Restrictions to Records Access. ( )

a. Access to personal health information shall be limited to: ( )

i. Employees of the department and contract providers to the extent necessary to perform normal business functions, including health treatment, and other functions designed to maintain the good order, safety and security of the juveniles or facility; ( )

ii. Individuals participating in a staffing for a juvenile, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the department, the contract provider,

probation officer, medical or mental health professionals and other appropriate individuals; ( )

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. ( )

b. Access to all other confidential juvenile records shall be limited to the following authorized persons: ( )

i. Staff authorized by the contract provider and members of the administrative staff of the contract provider's parent agency; ( )

ii. A parent or guardian or the juvenile, to the extent that disclosure is not privileged and is clinically appropriate; ( )

iii. Appropriate staff of the department; ( )

iv. Counsel for the juvenile with signed consent form; ( )

v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; ( )

vi. Individuals and agencies approved by the department to conduct research and evaluation or statistical studies; or ( )

vii. Schools, as appropriate. ( )

06. Withholding of Information. If the department or the contract provider believes that information contained in the record would be damaging to the juvenile's treatment or rehabilitation, that information may be withheld from the juvenile, or his parent, or guardian, or others, except under court order. ( )

07. Retention of Juvenile Records. Educational, medical, and drug and alcohol records must be permanently retained. Contract providers shall have a written policy on the retention and disposal of records. At the time of transfer or release from department custody, all records must be forwarded to the juvenile's juvenile services coordinator. ( )

08. Requests for Information. Requests for information of any kind about juveniles in department custody, following their release or transfer from a contract provider's program must be directed to the juvenile correctional center in Nampa. ( )

207. RELEASE FORMS.

01. Release of Nonmedical Information. The juvenile, parent or guardian, and department representative shall sign a release of information and consent form before information about the juvenile is released to any non-juvenile justice entity. A copy of the consent form shall be maintained in the juvenile's file at the program and in the file maintained by the department. ( )

02. Release of Medical Information. Release of medical information requires more specific authorization according to Section 320, of these rules. ( )

03. Minimum Information. The release of information and consent form shall, at a minimum, include the following: ( )

a. Name of person, agency or organization requesting information; ( )

b. Name of person, agency or organization releasing information; ( )

c. The specific information to be disclosed; ( )

d. The date consent form is signed; ( )

e. Signature of the juvenile and the parent or guardian; ( )

f. The signature of the person witnessing the juvenile's signature; and ( )

g. Effective and expiration dates. ( )

04. Document Reproduction. The contract provider agrees that no documents provided by the department shall be reproduced or distributed without the written permission of the department. ( )

208. JUVENILE PHOTOGRAPHS.

01. Limitations. No juvenile in the custody of the department shall be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. ( )

02. Department Authorization. Permission to release or use the photographs and any other visual image of juveniles in the custody of the department shall require written authorization from the department director or designee. ( )

209. CONTRACT PROVIDER ADMINISTRATIVE RECORDS.

01. Documentation Retention. The contract provider shall document and retain documentation of all information related to the following items: ( )

a. Program consultation provided at the facility, such as technical assistance on program design and implementation; ( )

b. Training provided to staff; ( )

c. All alleged instances of child abuse; ( )

d. Fiscal and program audits or reviews, including corrective actions required and taken; ( )

e. Reports of sexual abuse disclosures to Idaho Department of Health and Welfare or law enforcement; and ( )

f. Juvenile or staff grievances. ( )

02. Employee Files. Employee personnel files shall contain minimum qualifications for the job held, hiring information, annual performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgements of outstanding performance. ( )

210. CLOTHING AND PERSONAL ITEMS.

01. Sufficient Clothing. Juveniles shall have sufficient clothing of the proper weight to participate in activities included in their service implementation plan. Juveniles may arrive at the facility with their own clothing and personal items, which shall be inventoried. If the juvenile does not have sufficient clothing, or appropriate clothing, the contract provider shall provide or purchase adequate and appropriate clothing for the juvenile. Contract providers shall not request nor require that the parent or guardian pay for or purchase clothing. ( )

02. Release from Facility. All clothing and incidentals become the property of the juvenile upon release from the facility. The contract provider will ensure the proper care and cleaning of clothing in the juvenile's possession. ( )

03. Replacement Clothing. Clothing provided or purchased as replacement will be at the expense of the contract provider. Unique items of clothing not required for program participation may be purchased at the expense of the juvenile. ( )

211. FOOD SERVICE.
Juveniles shall be served a varied and nutritional diet with menus approved or developed by a qualified nutritionist or dietician and which meet the recommended dietary allowances of the National Research Council or its equivalent. Juveniles must be fed three (3) meals daily in accordance with the child care licensing rules of the Idaho Department of Health and Welfare. ( )

212. PERSONAL FUNDS.

01. Funds Handled by a Contract Provider. The contract provider will follow accepted accounting practices in managing personal funds of juveniles and in accordance with Section 213 of these rules. ( )

a. A contract provider shall be required to deposit all personal funds collected for the juvenile in a public banking institution in an account specifically designated "Juvenile Personal Funds" and to maintain a reconciled ledger showing each juvenile's deposits and withdrawals within the "Juvenile Personal Funds" account. If the funds are collected in an interest bearing account, the interest accrued must be credited to the juvenile for whom the funds are collected. In independent living programs, the required personal account may be opened by the juvenile and will be maintained by him as a part of his competency development. ( )

b. All withdrawals by a juvenile, or expenditures made on behalf of a juvenile by the contract provider, shall be documented, signed, and dated by the juvenile. This documentation shall be reconciled to the juvenile's ledger monthly. ( )

c. A contract provider may limit the amount of any withdrawal. ( )

d. A contract provider shall not require juveniles, parents or guardians to pay for services and supplies which are to be provided by the contract provider, such as clothing, toiletries, linen, laundry, drug screens, routine supplies, and lunch money. ( )

02. Reporting Requirements. A report shall be filed quarterly with the department's quality assurance staff as part of the report in Subsection 200.02 of these rules. The personal funds report shall show a list of all juvenile account balances, date of admission and, if appropriate, the date of transfer or release from department custody. The personal fund account is subject to review or audit by the department or its representatives at any time. Any discrepancies in juvenile accounts shall be resolved within fourteen (14) calendar days of notification. ( )

03. Transfer of Personal Funds. When a juvenile is released from department custody or transferred to another program, the balance of the juvenile's account shall be given to or mailed to the juvenile within five (5) business days and documented on the Contract Provider Juvenile Check-Out Form supplied by the department. ( )

04. Juveniles with Earned Income. The contract provider is responsible for maintaining and accounting for any money earned by a juvenile. These funds are to be deposited in the personal funds account. The contract provider shall establish a written plan, as part of the service implementation plan, for the juvenile to save at least ten percent (10%) of his net earnings. The plan shall specify the purpose for which funds saved will be used at program completion, such as deposits on utilities and housing, or purchase of tools necessary for employment. Additionally, there shall be a plan for the priority use of the juvenile's earned income to pay court ordered restitution and a specific allocation for daily incidental expenses. ( )

213. RESTITUTION.
A contract provider may utilize a portion of a juvenile's personal funds or earned income for the payment of restitution to victims or for program damages according to these rules. ( )

01. Victim Restitution. Except for those juveniles identified in Subsection 212.04 of these rules, victim and court ordered restitution shall be a claim against and paid from the juvenile's personal funds account in the

amount of fifty percent (50%) of those funds. Should the juvenile have no other funds available, then a plan must be developed by the contract provider to assist the juvenile in earning the amount of restitution and, if appropriate, help him develop a payment plan. ( )

02. Restitution for Damages. Restitution for damages at the program will not be paid to the exclusion of victim or court ordered restitution. The contract provider shall not access the juvenile's account for program damages without following the disciplinary process provided in these rules. ( )

a. Restitution may be ordered as part of the disciplinary process when a juvenile has willfully damaged or destroyed property, has caused or attempted to cause injury to himself, other juveniles or staff resulting in expenses being incurred, or has a pattern of falsely alleging injury or illness with the result that medical expenses are incurred. ( )

b. "Actual Cost" restitution may be imposed when property is destroyed and when an incident results in outside medical care for staff or juveniles. ( )

c. In no instance shall a contract provider withdraw all funds in a juvenile's account to satisfy restitution for program damages. ( )

03. Disciplinary Process. All juveniles shall be afforded an administrative hearing in accordance with the disciplinary procedure of the contract provider and standards set forth in these rules. ( )

214. NOTIFICATION OF DEATH OF A JUVENILE.
In the event of the death of a juvenile who is in the department's custody, the contract provider shall immediately notify the regional facility, juvenile's parent or guardian, the local coroner, and law enforcement. Other notifications will be coordinated between the contract provider and the department. ( )

215. EMERGENCY CLOSURE OF FACILITY.
In the event of a natural disaster, fire, flood, or other emergency situation in which the contract facility may be closed temporarily, the contract provider will notify the regional facility in its respective region. ( )

216. -- 219. (RESERVED).

220. CONSULTANTS AND SUBCONTRACTORS.
It is the responsibility of the contract provider to notify the department's quality assurance staff promptly, in writing, of any proposed changes in the use of consultants or subcontractors in the operations of a program. Any services offered by consultants and subcontractors, or interns, and not included in the terms of the existing contract, require the prior approval of the department. It is the responsibility of the contract provider to ensure that any consultant, subcontractor, or staff meets at least the minimum staff qualifications and terms of the original contract and these rules. The contract provider shall maintain a list of subcontracted service providers, interns, and their qualifications. Documentation of services provided by subcontractors shall include the number of units of service provided per program area. ( )

221. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the department must possess all licenses or certifications for their particular position as required by statute, rule, or by the Idaho Department of Health and Welfare, as applicable. ( )

02. Education or Experience. All individuals providing services must be qualified to do so on the basis of knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the department. ( )

03. Position Descriptions. Contract providers shall maintain written position descriptions for every job class established in the organization. In all cases, minimum qualifications for professional level staff must meet

licensure and certification requirements. In all cases, the particular job titles used by the contract provider to provide counseling, therapy, direct care, and supervision of juveniles, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. ( )

222. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social or familial deficits or dysfunctions presented by the juvenile, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the state of Idaho as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. ( )

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress and the provision and monitoring of therapeutic or rehabilitative treatment services to juveniles participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology or counseling, and must be licensed as a social worker in the state of Idaho. ( )

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile in connection with his overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field or have a high school diploma and two (2) years related experience in providing recreational services to juveniles. ( )

04. Rehabilitation Specialist or Case Manager. An individual, under direct supervision, who assists the juvenile in implementing his service implementation plan; evaluating the juvenile; and maintaining his case record with respect to all nonclinical matters. The rehabilitation specialist or case manager also assists in presenting the case in staffing; communicates with appropriate individuals, including community interests, regarding the juvenile; and prepares written communications, under supervision, including discharge reports. The rehabilitation specialist or case manager may also serve as the social worker if properly licensed in the state of Idaho. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. ( )

05. Rehabilitation Technician or Direct Care Worker. An individual responsible for providing individual or group rehabilitative therapeutic services, supervising juveniles' day-to-day living activities, and performing such duties as preparing nutritious meals, supervising and training juveniles in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. ( )

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the Individuals with Disabilites Education Act. This individual must hold a valid teaching certificate, allowing him to teach students with educational disabilities, in the state where the services are being provided. ( )

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching certificate in the state where the services are being provided and in the appropriate instructional field. ( )

223. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The contract provider shall ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juveniles, and provide for their health, safety and treatment needs. Staffing patterns shall ensure that professional staff are available to juveniles at times when they are in the program or facility. The contract provider staff should provide consistency and stability so

that the juveniles know the roles of each staff member. Specific staffing ratios shall be determined in each contract and shall be based on the level of intervention of the program and the risk level of the juvenile population. ( )

02. **Emergency Staffing Ratios**. At all times at least one (1) staff member on duty per twenty (20) juveniles in residence must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). ( )

224. GENERAL REQUIREMENTS FOR TRAINING.

01. **Training Plan**. Training for staff and volunteers shall be conducted in accordance with a written plan approved by management and coordinated by a designated staff member. The training plan shall include: ( )

a. Annual inservice training for all staff; ( )

b. Those areas requiring current certification; ( )

c. Prior to being assigned sole responsibility for supervision of juveniles, rehabilitation technicians or direct care staff shall have training in the following areas: ( )

i. Principles and practices of juvenile care and supervision; ( )

ii. Program goals and objectives; ( )

iii. Juvenile rights and grievance procedures; ( )

iv. Procedures and legal requirements concerning the reporting of abuse and critical incidents; ( )

v. Handling of violent juveniles (use of force or crisis intervention); ( )

vi. Security procedures (key control, searches, contraband); ( )

vii. Medical emergency procedures, first aid, and CPR; ( )

viii. Incident reporting; ( )

ix. How to recognize and respond to suicidal behavior; ( )

x. How to access emergency health and mental health care; ( )

xi. Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; ( )

xii. Appropriate response to health-related emergencies; ( )

xiii. Training to meet the requirements of federal educational regulations; and ( )

xiv. Training on the appropriate and safe transportation of all juveniles. ( )

d. Inservice training for all first-year staff shall include: ( )

i. Program policies and procedures; ( )

ii. Job responsibilities; ( )

iii. Juvenile supervision; ( )

iv. Safety and security emergency procedures (fire, disaster, etc.); ( )

v. Confidentiality issues; ( )

vi. Juvenile rights and grievance procedures; ( )

vii. Communicable diseases, bloodborne pathogens, and universal precautions; ( )

viii. Behavioral observation, adolescent psychology and child growth and development; ( )

ix. Juvenile Corrections Act, balanced and restorative justice, and department rules for contract providers; ( )

x. Basic security procedures; ( )

xi. Signs and symptoms of chemical use or dependency; ( )

xii. Drug-free workplace; and ( )

xiii. Diversity training to include cultural awareness. ( )

02. Minimum Mandatory Staff Training Requirements. Good professional practice in the area of juvenile treatment requires staff to be competently trained. Therefore, all staff are required to have: ( )

a. Eighty (80) hours of training for all staff during first year of employment. Up to twenty-five percent (25%) of the eighty (80) hours may be fulfilled by working with an experienced staff mentor, who must verify and document basic competencies for new staff; and ( )

b. Forty (40) hours of training per year following the first year of employment. ( )

03. Trainer Qualifications. ( )

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to, first aid, CPR, physical intervention techniques, shall have appropriate certification which must be documented in their personnel or training file. ( )

b. Individuals who provide instruction in treatment shall have appropriate training, education, and experience which must be documented in their personnel or training file. ( )

04. Documentation of Training. Staff training records shall be kept by a designated staff person. Separate training records shall be established for each staff member and volunteer and shall include: ( )

a. Name; ( )

b. Job title; ( )

c. Employment beginning date; ( )

d. Annual training hours required; and ( )

e. A current chronological listing of all training completed. ( )

05. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Copies of curriculum materials must be maintained. ( )

225. VOLUNTEERS.
Programs should consider soliciting the involvement of volunteers to enhance and expand their services. However,

volunteers recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Volunteers shall not be assigned sole supervision of juveniles. ( )

226. VOLUNTEER PLAN.

01. Written Plan. Programs that utilize volunteers regularly shall have a written plan that includes stipulations for their use and training. Training provided must include all of the information necessary for the volunteers to successfully perform their roles within the program. ( )

02. Recruitment. Recruiting of volunteers is conducted by the chief administrative officer or designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. ( )

03. Volunteer Requirements. ( )

a. Volunteers must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; ( )

b. Volunteers must complete an application for the position and be suited for the position to which they are assigned; ( )

c. Volunteers must agree in writing to abide by all program policies; ( )

d. Volunteers who perform professional services must be licensed or certified as required by state law or rule; ( )

e. Written job descriptions must be provided for each volunteer position; and ( )

f. Volunteers must agree to background and criminal record checks as prescribed by state law. ( )

04. Supervision. Volunteers will be supervised by a paid employee of the contract provider. This individual shall coordinate and direct the activities of the volunteer. Volunteer performance shall be evaluated periodically and evidence of this evaluation be made part of the personnel record of the volunteer. ( )

05. Documentation. Contract provider shall maintain individual personnel files for each volunteer working in the program. The files shall contain all documentation as described in Subsection 226.03 of these rules.
. ( )

06. Termination. There will be a procedure established for the termination of volunteers when substantial reasons for doing so exist. ( )

227. INTERNS.
Programs should consider involving interns to enhance and expand their services. However, interns recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Interns shall not be assigned sole supervision of juveniles. ( )

01. Written Plan. Programs that utilize interns regularly shall have a written plan that includes stipulations for their use and training. Training provided must include all of the information necessary for the interns to successfully perform their roles within the program. ( )

02. Intern Requirements. ( )

a. Interns must be documented to be enrolled in an accredited school or program for the profession, must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; ( )

b. Interns must have a fully developed internship or practicum agreement which details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which

they are enrolled. The internship agreement must include the signatures of the intern, supervising contract provider staff, and a representative of the academic institution in which the intern is enrolled. ( )

c. Interns must agree in writing to abide by all policies and standards of conduct, and must agree to meet the ethical standards for the profession for which they are training; ( )

d. Interns who perform professional services must be licensed or certified as required by state law or rule, or must be documented to be supervised directly by staff meeting those credentials; ( )

e. Interns must agree to background and criminal record checks as prescribed by state law. ( )

03. Supervision. An intern will be supervised by a paid employee of the contract provider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern. Intern performance shall be evaluated periodically and evidence of this evaluation made part of the work record of the intern. ( )

04. Documentation. Contract provider shall maintain individual personnel files for each intern working in the program. The files shall contain all documentation as described in Subsection 227.02 of these rules. ( )

05. Termination. There will be a procedure established for the termination of interns when substantial reasons for doing so exist. ( )

228. CRIMINAL BACKGROUND CHECKS.

All contract providers providing services to the department shall ensure that all employees, interns, and volunteers, as required by law, have undergone a criminal background check in the manner and form required by IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho or any other state, will also result in an unconditional denial of employment for direct care or services, or where the employee would have any opportunity to have contact with juveniles in the contract provider's care. Documentation of appropriate requests and responses shall be kept in confidential employee personnel files. ( )

229. DRIVERS.

All drivers of vehicles transporting juveniles must possess a valid Idaho driver's license and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the contract provider. Personnel files must contain evidence of training to transport juveniles as well as other appropriate documentation. When parents, guardians, or others are allowed to transport juveniles for any reason, it is the responsibility of the contract provider to ensure that the individual holds a current and valid driver's license. ( )

230. -- 239. (RESERVED).

240. JUVENILES' RIGHTS AND RESPONSIBILITIES.

01. Contract Providers' Obligations. The contract provider must observe, and not infringe upon, the rights of each juvenile in its facility or program. The contract provider shall also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. ( )

02. Religious Services and Special Needs. Each juvenile and his family will be advised in writing of the obligation of the contract provider to allow access to appropriate religious services, and to make reasonable accommodations for any disabilities, language barriers, or other special needs. A signed copy of this notice shall be placed in the juvenile's file. ( )

03. Juveniles' Program Responsibilities. The contract provider shall inform each juvenile, upon admission to its program, of his responsibilities during the program. Additionally, each juvenile shall have an understanding of the following program expectations: ( )

a. Requirements needed to complete program; ( )

b. How to access medical services; ( )

c. How to file a grievance; and ( )

d. How to contact his juvenile services coordinator and juvenile probation officer. ( )

241. DISCIPLINE OF JUVENILES.

01. Written Policies and Procedures. All providers offering treatment services shall have comprehensive written discipline policies and procedures, which shall be explained to all juveniles, families, and staff. These policies shall include positive responses for appropriate behavior. They shall include a provision for notice to the juvenile being disciplined, a mechanism for a fair and impartial hearing by a disciplinary board, and a process for appeal. ( )

02. Problem Resolution. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile. A contract provider shall make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile. Any restriction of a juvenile's participation in a program resulting from a formal disciplinary action must be reported in an incident report. ( )

242. FORMAL DISCIPLINARY PROCESS.

01. Prior To and Upon Initiating a Formal Disciplinary Action. Prior to and upon initiating a disciplinary action, careful attention should be given to the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. ( )

02. Control of Juveniles. Staff will make every effort to maintain control of juveniles through positive methods. ( )

03. Discipline. Discipline will be administered in a way to create a learning experience for the juvenile, and never in a way that degrades or humiliates a juvenile. ( )

04. Other Juveniles. No juvenile shall supervise nor carry out disciplinary actions over another juvenile. ( )

05. Prohibited Actions. The contract provider is prohibited from using certain actions as disciplinary responses as listed in the child care licensing rules of the Idaho Department of Health and Welfare. ( )

06. Denial of Services. Denial of the following are prohibited as disciplinary responses: ( )

a. Educational and vocational services; ( )

b. Employment; ( )

c. Health or mental health services; ( )

d. Access to family, juvenile probation officer, and legal counsel; and ( )

e. Religious services. ( )

243. APPEAL OF FORMAL DISCIPLINARY PENALTIES.

Each contract provider shall have a formal written process through which a juvenile can appeal a disciplinary action and receive a review of his case. The contract provider shall explain to the juvenile how to use the appeal process. The juvenile must be informed that in any event he may include his juvenile services coordinator in the disciplinary process. ( )

244. ROOM RESTRICTIONS.
The contract provider shall have written policies and procedures regulating the use of the juvenile's room for "room restriction." The policy shall ensure that there are procedures for recording each incident involving the use of restriction. The reason for the room restriction shall be explained to the juvenile and he shall have an opportunity to explain the behavior. Other less restrictive measures must have been applied prior to the room restrictions. Juveniles in room restriction shall have access to the bathroom. Staff shall check on a juvenile in room restriction a minimum of once every fifteen (15) minutes. Room restriction may only be used in an unlocked area. Room restriction shall not exceed a total of eight (8) hours within a twenty-four (24) hour period. Contract providers must ensure that juveniles with a history of depression or suicidal ideation and those who have exhibited these behaviors while in care, are checked at least every five (5) minutes in order to ensure their safety. Additionally, if any level of suicide precaution is initiated, constant observation must be maintained. All items in the area that might be used to attempt self-harm should be restricted or removed. ( )

245. BATTERY ON STAFF.
All instances of battery committed on staff shall be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident shall be reported to the juvenile's juvenile services coordinator as an incident report according to Subsection 262.02 of these rules. ( )

246. GRIEVANCE PROCEDURES.

01. Written Procedures. Each program shall have a written grievance procedure for juveniles, which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It shall be written in a clear and simple manner and shall allow juveniles to make complaints without fear of retaliation. ( )

02. Grievance Forms. The grievance procedure shall be explained to the juvenile by a staff member who shall enter a note into the juvenile's file confirming the explanation. Grievance forms shall be in a location accessible to juveniles without having to request such a form from staff. Completed forms should be placed in a secure area until collected and processed weekly. A copy of the grievance and the resolution of that grievance must be attached to the quarterly report as specified in Subsection 200.02 of these rules. ( )

247. LETTERS.

01. Restrictions. Juveniles shall be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile's service implementation plan. There shall be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. However, juveniles will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week. ( )

02. Inspection of Outgoing Letters. ( )

a. Outgoing letters are to be posted unsealed and inspected for contraband. ( )

b. Exception: Outgoing "privileged" mail may be posted, sealed and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this rule, "an identifiable source" means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee has been verified. Possible identifiable sources are the following: ( )

i. Court(s); ( )

ii. Attorney(s); ( )

iii. Juvenile services coordinator, or director of the Idaho Department of Juvenile Corrections; ( )

iv. Other state and federal departments, agencies and their officials; and ( )

v. Members of the press. ( )

c. Upon the determination that the mail is not identifiable as privileged mail, said mail shall be opened and inspected for contraband. ( )

03. Inspection of Incoming Letters. All incoming letters must be opened by the juvenile to whom it is addressed and may be inspected for contraband by staff and only in the juvenile's presence. ( )

04. Reading of Letters. Routine reading of letters by staff is prohibited. The department or court may determine that reading of a juvenile's mail is in the best interest of the juvenile, and is necessary to maintain security, order or program integrity. However, such reading of mail must be documented and unless court ordered, must be specifically justified and approved by the juvenile services coordinator. Under no circumstances shall a juvenile's privileged mail be read. ( )

248. PACKAGES.
All packages shall be inspected for contraband. ( )

249. PUBLICATIONS.
Books, magazines, newspapers and printed matter which may be legally sent to juveniles through the postal system shall be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. Juveniles will not be allowed to enter into subscription agreements while in department custody. ( )

250. DISTRIBUTION OF MAIL.
The collection and distribution of mail is never to be delegated to a juvenile. Staff shall deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile to whom it is addressed. ( )

251. VISITATION.
The contract provider shall develop written rules governing visiting at the facility and shall provide a copy to each juvenile, his parent or guardian, and the juvenile services coordinator. Visitation policy must include specific restrictions on those under the influence of alcohol or drugs. In all cases, the contract provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the contract provider's criteria. The contract provider is responsible for developing and implementing policy concerning visitation which protects the safety of visitors, staff, and juveniles. This may restrict visitation below an established age or provide for higher levels of supervision in circumstances where safety may be at risk. ( )

252. PERSONAL SAFETY.

01. Responsibility. Every juvenile has the fundamental right to feel safe. Contract providers have the responsibility to ensure that juveniles are safe while in their care. Every juvenile shall be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile does not feel safe. ( )

02. Periodic Contacts. The contract provider's managers should make periodic contact with juveniles in the program to determine if they feel safe and are comfortable when interacting with peers and staff. ( )

253. SMOKING AND SALE OF CIGARETTES.

01. Purchase or Use. Juveniles in department custody, regardless of age, are strictly prohibited from purchasing or using tobacco products. **( )**

02. Written Policies. Every contract provider shall establish written policies and procedures banning the use of cigarettes and other tobacco products by juveniles at the facility. ( )

254. RESEARCH.

01. Written Policies. Residential and nonresidential programs shall have written policies regarding the participation of juveniles in research projects. Policies shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes. ( )

02. Voluntary Participation. Policies shall govern voluntary participation in nonmedical and nonpharmaceutical research programs. However, juveniles shall not participate in any research program without prior written approval from the director or designee. ( )

255. -- 259. (RESERVED).

260. PROGRAMMING.

01. Basic Program Requirements. Contract providers offering residential and nonresidential programs for juveniles must provide opportunities and services for juveniles to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be research based, gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juveniles involved in these programs is the successful return of the juvenile to the community without committing further crimes. ( )

02. General Requirements. ( )

a. Contract providers must provide a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy. ( )

b. Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juveniles, and those programs serving sexually abusive juveniles, must be able to demonstrate that the program services offered are supported by research. ( )

c. Programs serving female juveniles must be able to demonstrate that the services provided include elements of a program specific to the unique situations and circumstances facing female juvenile offenders. ( )

d. Program services for individual juveniles must be designed based upon a documented assessment of strengths, as well as needs and risks, and must target those behaviors or circumstances which have contributed to the juvenile's delinquency and which can reasonably be changed (criminogenic needs). ( )

e. Professional level services offered as a part of the program must be provided by staff meeting the requirements set forth in Sections 220 through 222, of these rules. ( )

f. Progress made by individual juveniles in each service area, that is a portion of the service implementation plan, must be documented in at least monthly progress notes and reported in written progress reports at least every two (2) months. ( )

g. Programs that contract with the department to serve juveniles and their families must: ( )

i. Provide humane, disciplined care and supervision; ( )

ii. Provide opportunities for juveniles' development of competency and life skills; ( )

iii. Hold juveniles accountable for their delinquent behavior through means such as victim-offender mediation, restitution, and community service; ( )

iv. Seek to involve juveniles' families in treatment, unless otherwise indicated for the safety and benefit of the juveniles or other family members; ( )

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; ( )

vi. Participate fully with the department and the community treatment team in developing and implementing service plans for juveniles they serve; ( )

vii. Provide juveniles with educational services based upon their documented needs and abilities; and ( )

viii. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile. ( )

h. Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile to the community. All juveniles committed to the department shall have a written reintegration plan developed as a part of their service implementation plan. ( )

03. Comprehensive and Current Program Description. Contract providers must provide, and keep current with the department, a program description detailing the range of services to be provided and the methods for providing these services. The current program description will be attached to the contract. At a minimum, this program description must include: ( )

a. Target population and specific admission criteria; ( )

b. Primary and secondary treatment modalities; ( )

c. Outline of daily schedules for juveniles and staff; ( )

d. Plans for providing educational services, including full compliance with all applicable federal and state law and rules for special education and Title I services; ( )

e. Plans for providing emergency and routine health and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; ( )

f. Plans for providing religious services, recreation services, and other specialized services as indicated by the needs of the identified target population; ( )

g. Plans for the use of volunteers to provide for support elements of the program; ( )

h. Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; ( )

i. A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery, and accounting for the costs of all services provided by consultants and subcontractors; ( )

j. A detailed description of the behavior management component of the program; and ( )

k. A copy of any memoranda of understanding with the local educational authority for providing educational services. ( )

04. Advance Notice of Program or Population Changes. Contract providers shall notify the department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the facility,

closure of the facility, changes in ownership or in the organizational structure. ( )

261. PROGRAM POLICY REQUIREMENTS.

01. Written Policies. Programs must have, at a minimum, the following written policies concerning program operations available at the program site. ( )

a. Program elements and implementation. ( )

b. Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program. ( )

c. Criteria for assigning juveniles to different units within the program, if applicable. ( )

d. The provision of (or referral for) emergency and routine health and mental health services for the population. ( )

e. The prevention and monitoring of suicidal behavior. The policy at a minimum shall require that: ( )

i. A suicide risk screening be completed within no more than two (2) hours of a juvenile's admission into a facility. The screening is done to identify an immediate threat of suicide or self-harm and the need for a suicide risk assessment. Further, the screening is a system of structured and documented observation, interview and review of behavioral, medical, and mental health information. ( )

ii. A suicide risk assessment, if appropriate, be completed by a mental health professional for the purpose of determining the level of immediate risk of a juvenile attempting suicide. A suicide risk assessment is a system of structured and documented observation, interview and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information, interviews of staff and the juvenile concerning the behavior that seems to present the threat of self-harm or suicide and the development and dissemination of a safety plan to address the risk as it is determined to exist. A suicide risk assessment typically involves an assessment of the juvenile's determination to act on his intentions of self-harm, a determination of the depth of his planning for making the attempt, the availability of the items or situations necessary for him to act on that plan and the lethality of the plan as expressed. Reassessment of suicide risk is made at a time determined by the mental health professional completing the assessment and is ideally completed by that same mental health professional. ( )

f. Behavior management within the program, including use of points and levels, restraints, separation, detention and other types of special management. ( )

g. Supervision of juveniles. This policy shall include managing juvenile movement within the program, including the timely transfer of behavioral information about juveniles from staff at shift change. ( )

h. Juveniles' access to the community. This policy shall include use of community schools or job sites, and individual or group activities away from the program site. For residential programs, this also includes day or home passes. ( )

i. Provision of educational and vocational services. ( )

j. Administrative coverage in emergency situations, after regular work hours (residential only). ( )

k. Documentation and reporting of critical incidents to program administrators, the department and others on the community treatment team. ( )

l. Treatment planning and progress reporting to the department, juvenile, family and others on the community treatment team. ( )

m. Reintegration. The policy shall describe criteria for successful completion of program, termination from program prior to completion, and the involvement of the department and community treatment team. ( )

n. Grievances. ( )

o. Visitation. ( )

p. Correspondence, including telephone and mail. ( )

q. Emergency procedures in the event of a natural disaster. ( )

r. Searches of staff and visitors. ( )

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the department. ( )

262. PROGRAM OPERATIONAL REQUIREMENTS AND CASE MANAGEMENT.

01. General Requirements. ( )

a. Programs should provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juveniles, and teaches and promotes healthy life choices. Programs should specifically address those factors in juveniles' lives that contribute to delinquency and that can be realistically changed. ( )

b. Programs must be open to the community by encouraging appropriate telephone and mail contact between juveniles and their families, by encouraging visitation, and by involving volunteers in support of the program. ( )

c. Contract providers must structure and document services offered in the program so that continuity in case planning is obvious. Health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. Progress on goals associated with those needs must be recorded in progress notes in a case file at least monthly and in a written progress report at least every two (2) months. Service needs remaining at the time of release from department custody or transfer must be accounted for in the reintegration plan for each juvenile. ( )

d. Without authorization from the Idaho Department of Health and Welfare and the department, a residential care contract provider shall not admit more juveniles into care than the number specified on the provider's license. Contract providers wishing to increase capacity are responsible for contacting the Idaho Department of Health and Welfare. A copy of the written confirmation to the contract provider from the Idaho Department of Health and Welfare for verbal approval to exceed the licensed capacity shall be forwarded to the department's clinical supervisor in the region and to the department's quality assurance staff. ( )

e. Programs may not, under any circumstances, involve juveniles in plethysmographic assessments. The use of polygraphs for juveniles adjudicated for or documented to have demonstrated sexually abusive behavior, shall only be undertaken by court order or with the specific written authorization of the department's regional clinical supervisor, and then only with the full, informed consent of the juvenile, and if he is a minor, his parent or guardian. Contract providers shall not make treatment decisions solely on the results of a polygraph. Polygraphers used in this process must be able to provide documentation of specific training in the use of polygraphy with sexually abusive juvenile offenders. ( )

02. Reporting Incidents. ( )

a. If any of the following events occur, the contract provider must immediately notify the juvenile's parent or guardian, juvenile services coordinator, juvenile probation officer, and the department's regional state facility by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24)

hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. ( )

i. Health and mental health emergencies, including but not limited to, every instance of emergency room access; ( )

ii. Major incidents such as death of a juvenile, suicide, attempted suicide or threat of suicide, attempted escape, sexual misconduct among juveniles or by staff, criminal activity resulting in arrest or filing a report with local law enforcement, or any relevant report made to the Idaho Department of Health and Welfare; ( )

iii. Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; ( )

iv. Any use of separation or isolation for more than two (2) hours; ( )

v. Incidents of alleged or suspected abuse or neglect of juveniles; and ( )

vi. Incidents involving the disclosure of criminal behavior by juveniles. ( )

b. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ( )

03. Incidents Not Requiring Immediate Notice. ( )

a. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than ten (10) business days after the incident. ( )

b. A detailed incident report is required for each incident or activity which jeopardizes the safe operation of the facility. This would include but not be limited to instances of lost keys or tools; major misconduct by one (1) or more juveniles or staff; discovery of contraband such as weapons or drugs; and significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters. ( )

c. A detailed incident report is also required for each incident of staff or juvenile misconduct which results in any type of: ( )

i. Injury; ( )

ii. Physical restraint; ( )

iii. Suspension; ( )

iv. Termination of work; ( )

v. Program participation; ( )

vi. Separation, isolation, or room confinement for less than two (2) hours; ( )

vii. Detention; or ( )

viii. Arrest of a juvenile. ( )

04. Incident Report Content. Contract providers may elect to use the department's standard incident report form or may use another form as long as all of the following information is included: ( )

a. Juvenile's assigned unit; ( )

b. Date and time of the incident; ( )

c. Witnesses; ( )

d. Persons notified with date and time of notice; ( )

e. Type of incident by category, such as assault on staff, assault on juvenile, injury or illness, property damage, contraband, suicide attempt or threat, escape or attempted escape, or other misconduct; ( )

f. Action taken by category, such as physical restraint, separation, isolation, or room confinement with times in and out, suicide precautions, or escape precautions initiated; ( )

g. Brief narrative description of the incident; ( )

h. Signature of staff and reviewing supervisor; and ( )

i. Documentation of injury and medical attention provided. ( )

05. Escapes. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ( )

a. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the department. ( )

b. The contract provider shall not transfer a juvenile at the time of an escape. The juvenile shall continue to be assigned to the program, although not physically present for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile was on escape status up to forty-eight (48) hours. Should the program choose to transfer the juvenile after his return, then the procedures outlined in Subsections 276.04 and 276.08, of these rules, shall apply. If the juvenile is apprehended, the contract provider should contact the juvenile services coordinator to plan for transfer of the juvenile to a regional facility for an updated assessment and for a placement decision. ( )

06. Monitoring the Location of Juveniles. The contract provider must have and strictly follow a comprehensive policy covering the supervision of juveniles, including a plan for monitoring all movement of those juveniles both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile assigned to that program at all times. ( )

07. Nonresidential Absences. Nonresidential programs shall make reasonable efforts to ensure that the juveniles attend their program daily or as otherwise specified in the service implementation plan. The nonresidential program shall inform the juvenile services coordinator of daily attendance and all attendance problems. This information must be documented in at least monthly progress notes and must be reported in written progress reports every two (2) months. ( )

263. FACILITY SEARCHES.

01. Periodic Searches. In order to ensure the safety of juveniles, staff, and visitors, periodic facility searches for contraband shall be conducted. The frequency and extent of whole facility and ground searches should be consistent with program policies and can be included during other routine inspections or activities. Searches shall be conducted by staff trained in appropriate search techniques. Searches called by the facility staff do not have to include the entire facility, but can be limited to specific areas or juveniles. Juveniles' belongings shall be disturbed no more than necessary during the search. The search shall be documented in terms of who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator will be notified and it shall be reported according to the requirements of the department. If necessary, the appropriate law enforcement agency should be notified. ( )

02. Policies and Procedures Governing Searches. The program shall have policies and procedures for conducting searches of juveniles, staff, visitors, and all areas of the facility in order to control contraband or locate missing property. It is suggested that a sign be posted notifying visitors of the specific policy of the contract provider regarding searches. ( )

03. Policies and Procedures Governing Consequences. The contract provider shall have written policies and procedures establishing the consequences for juveniles found with contraband. Juveniles should acknowledge, with their signature, that they were informed of what constitutes contraband and also the consequences for its possession. ( )

04. Visitor Searches. ( )

a. Prior to visitors being allowed in the facility, they shall be given rules established by the contract provider that govern their visit and advised that they may be subject to a search. They shall sign a statement of receipt of these rules and it shall be placed in the facility's file. Visitors may be required to submit packages, handbags, and briefcases for inspection by trained staff. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. ( )

b. All visitor searches shall be documented in the facility log. When contraband is found, a written report shall be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. ( )

264. CONTRABAND DISPOSAL.
All contraband found in the possession of juveniles, visitors, or staff shall be confiscated by staff and secured under lock and key in an area inaccessible to juveniles. Local law enforcement shall be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the facility director, in consultation with the department, to dispose of all contraband not confiscated by police. Visitors who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juveniles during the visit. These items will be returned to the visitors upon their exit from the facility. ( )

265. SEARCHES OF PERSONAL ITEMS.
Routine searches of suitcases or personal items being introduced into the facility will be conducted by facility staff prior to the juvenile taking possession of his property, or when the juvenile is returning to the facility from a home pass. Search of a juvenile's belongings may be done at any time and shall be minimally intrusive. All searches shall be documented in the facility log and, if contraband is found, a written incident report must be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ( )

266. JUVENILE PAT DOWN SEARCHES.

01. Necessity. Pat down searches of juveniles may be conducted whenever the contract provider believes it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff, juveniles, and visitors. A pat down search may be used when a juvenile is returning from a visit, or outside appointment, or activity. ( )

02. Pat Down Searches. Pat down searches shall be conducted in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare. ( )

03. Documentation. All pat down searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ( )

267. JUVENILE STRIP SEARCHES.

01. Reasonable Suspicion. Strip searches may be performed by facility staff, only after a pat down search, whenever there is reasonable suspicion to believe that weapons or contraband may be found through additional searches. Strip searches shall be authorized by the facility director or designee and conducted strictly in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare. ( )

02. Documentation. All strip searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ( )

268. DRUG SCREENS OF JUVENILES.
Drug screens may be done randomly or on an as needed basis at the contract provider's expense with the approval of the contract provider's director. A record shall be kept of all drug screens and results. A positive drug screen shall immediately be reported to the juvenile services coordinator supervising the case. ( )

269. USE OF FORCE OR PHYSICAL RESTRAINTS.
Contract providers must ensure that all terms of the child care licensing rules of the Idaho Department of Health and Welfare are strictly followed, as appropriate. Additionally, contract providers must ensure that: ( )

01. Minimal Use. Only the minimum level of force necessary to control a juvenile's destructive behavior shall be used. ( )

02. Physical Force. Physical force, at any level, may only be used to prevent injury to the juvenile or to others and to prevent serious damage to property or escape. Physical force shall never be used as punishment. ( )

03. Reporting Requirement. All instances of inappropriate use of force must be documented in an incident report and submitted to the juvenile services coordinator. These incidents must be reported to the Idaho Department of Health and Welfare, or law enforcement as required by law. ( )

270. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.
A juvenile's admission into a program shall be based on an assessment of the juvenile's strengths, problems, risks and needs, and on the anticipated ability of the program to reasonably address those issues. Contract providers shall ensure that the juvenile and parent or guardian are provided an opportunity to participate in the admission process and related decisions. ( )

01. Accepting Referral. Upon receipt of a complete referral packet from the department, the contract provider has two (2) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form, attached to the referral packet, must be completed and signed. By accepting the referral, the contract provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile's transportation will be made. ( )

02. Declining Referral. Contract providers shall not, without just cause, deny admission to any juvenile who meets the specific admission criteria set forth in the program description. If a contract provider denies a referral, the specific reason for denial must be documented on the department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The contract provider shall then shred the referral packet. ( )

03. Change in Admission Criteria. Any change in the contract provider's admission criteria must be reflected in the admission policy and requires a written amendment to the contract with the department. Temporary exceptions are covered under Section 101, of these rules. ( )

271. ONGOING TREATMENT AND CASE MANAGEMENT.

01. Service Implementation Plan. Within thirty (30) calendar days of the juvenile's admission into the program, a written plan must be developed. The service implementation plan must relate services to be provided for each juvenile to the risks, needs and competencies identified in the service plan from the observation and assessment report provided by the department for that juvenile. The service implementation plan should, at a minimum, address the following areas as indicated by need: ( )

a. Health; ( )

b. Mental health; ( )

c. Substance abuse; ( )

d. Social skills; ( )

e. Education; ( )

f. Vocations; ( )

g. Independent living; ( )

h. Other special needs; and ( )

i. Progress notes from the initial period of placement in the program. ( )

02. Family Involvement. Each juvenile and, to the fullest extent possible, the family should be involved in developing the service implementation plan, and in adjusting that plan throughout the course of commitment. ( )

03. Department Assessments. Assessments provided by the department shall not be repeated by the contract provider at the time of admission into the program without specific justification provided to the regional clinical supervisor. ( )

04. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. ( )

05. Progress Notes. Monthly progress notes must be filed recording each juvenile's progress toward completing the service implementation plan. ( )

06. Education Plan. A copy of the juvenile's education plan shall be a component of the service implementation plan. This education plan shall include the juvenile's course of study (GED, secondary, post-secondary, etc.), long-term educational goals and short-term objectives, and shall comply with all state and federal laws. If the juvenile has been identified as eligible to receive services under Section 504 of the federal Rehabilitation Act of 1973 (504) or the federal Individuals with Disabilities Education Act (IDEA), a copy of the Individualized Educational Plan (IEP), and supporting documentation shall be available for review by the department and the Idaho Department of Education. The education plan shall be submitted yearly to the juvenile correctional center in Nampa while the education progress reports shall be submitted every other month. ( )

07. Progress Report. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 271.01, of these rules, should also be referenced in the progress report. Each progress report should also note any changes or further development of the reintegration plan and should detail the level of involvement of the parent or guardian in treatment. A written progress report must be submitted to the juvenile

services coordinator at least every two (2) months. ( )

08. Report Distribution. Copies of the progress report shall be distributed by the contract provider to the juvenile and juvenile services coordinator. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for some well documented reason. ( )

a. The juvenile must always be aware of the status of his progress within the program and what remains to be done to complete the program. ( )

b. Programs must provide an educational program that is tailored to each juvenile's educational level, abilities, problems, and special needs, and improves educational performance and vocational skills while in care. ( )

c. Each juvenile should have a written individual learning plan for education based upon assessed academic, emotional, developmental and behavioral needs, and competencies. Juveniles determined to be eligible for special education must be provided these services. The provision of these services and the progress made academically must be documented regularly in a separate educational file. Juveniles qualifying for special education must have a valid IEP available for review by the department and the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the student's permanent school records that are maintained at the juvenile correctional center in Nampa. ( )

d. Contract providers must assure that the basic norms and expectations of the program are clearly presented to juveniles and that they are understood. Any points, levels or phases that are a fundamental part of a program must be clearly understood by juveniles in the program. Each juvenile's progress, or lack of progress, through these levels must be clearly documented and must be related to documented behavior. Recommendations for release from department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. ( )

272. PASSES.

Prior to granting a day pass or a home pass to a juvenile, the contract provider shall contact the juvenile probation officer and the juvenile services coordinator to ensure that neither the court nor the department has placed restrictions on the juvenile's pass privileges. All requests for passes must be approved by the juvenile services coordinator. Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. ( )

01. Potential Risk to Public Safety. All passes for juveniles assigned to residential facilities should be considered as an integral part of the service implementation plan. However, in all cases, the potential risk to public safety and adequacy of home supervision shall be considered prior to allowing a juvenile to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juveniles. Contract providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The department's Off-Campus Pass form may be used for this purpose. If the department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision, the pass must contain at least the following information: ( )

a. The juvenile's name and date of birth; ( )

b. The name, address and telephone number of the individual assuming responsibility; ( )

c. Authorized days, dates and times for the pass, including the specific date and time of departure and

of return; ( )

d. A complete listing of the anticipated locations and activities in which the juvenile is expected to be involved; ( )

e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; ( )

f. A complete listing of the activities required during the pass; ( )

g. Specific stipulations prohibiting: ( )

i. The use of alcohol, tobacco, and drugs; ( )

ii. Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; ( )

iii. Participation in sexual relations of any kind; ( )

iv. Possession of any kind of firearm or weapon; ( )

v. Any violation of the terms of probation; and ( )

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. ( )

02. Eligibility. A juvenile must be in placement a minimum of thirty (30) calendar days before he is eligible for any pass. Any exceptions due to extenuating circumstances must be approved by the juvenile services coordinator. ( )

03. Frequency. Frequency of passes shall be consistent with the terms of the juvenile's service implementation plan and contract provider's contract with the department. ( )

04. Documentation. Documentation of the exact date and time of the juvenile's departure from the program for a pass, and his return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ( )

273. GROUP ACTIVITIES OFF FACILITY GROUNDS.
An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay, and why the activity is being planned must be submitted to the juvenile services coordinator at least five (5) business days prior to the activity. The activity plan must identify the specific risk elements associated with the activity and provide a safety plan for each of those risk elements. Routine, low risk activities within the local community adjacent to the facility do not require prior notice, and are to be conducted at the discretion of and under the responsibility of the contract provider. ( )

01. Recreational Activities. A pass authorizing the participation of juveniles in outdoor recreational or work activities with an increased risk, such as overnight trips, must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves rafting, boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the clinical services administrator. ( )

02. Staff Requirements. ( )

a. A basic first aid kit and current Red Cross First Aid Manual will be taken with the group. At least one (1) person certified in first aid and CPR shall accompany the group. ( )

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in

basic rescue and water safety, water safety instruction, or Red Cross life saving. All juveniles involved in boating or rafting activities must wear an approved personal flotation device. ( )

c. A staff to juvenile ratio of one to six (1 to 6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of juveniles below age twelve (12), are some reasons to consider additional staff. ( )

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. ( )

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subsection 273.01 of these rules. Each juvenile must have prior written consent from a parent or guardian, if available, and the clinical services administrator. Consent shall include: ( )

a. Permission for the juvenile's participation; ( )

b. Acknowledgement of planned activities; and ( )

c. Permission for the contract provider to seek or administer necessary medical attention in an emergency. ( )

04. Consumption. There will be no consumption of alcoholic beverages or illicit drugs by staff or juveniles or volunteers while engaged in any agency-sponsored trip or activity. ( )

274. ACTIVITY REPORTS.
At the conclusion of each pass or group activity, the contract provider shall determine whether any problems occurred or other significant positive or negative events transpired while the juvenile was on pass. This information shall be documented in the juvenile's file. Any unusual occurrences shall be reported to the juvenile services coordinator and documented on an incident report. A drug screening urinalysis may be conducted on each returning juvenile, at the expense of the contract provider, and the results of that exam reported to the juvenile services coordinator. ( )

275. OUT-OF-STATE TRAVEL.
When a contract provider is planning an out-of-state trip for any of its juveniles, the facility administrator shall obtain prior written authorization from the regional clinical supervisor or designee. The necessary sequence of action and approval is as follows: ( )

01. Notification. The contract provider shall notify the juvenile services coordinator in writing two (2) weeks in advance of the scheduled trip with the following: ( )

a. Dates of the scheduled trip; ( )

b. Location of the trip; ( )

c. Purpose of the trip; ( )

d. Transportation arrangements; ( )

e. Where the juvenile will be staying if overnight accommodations are required (address and phone number); and ( )

f. Who is going, such as juvenile and name and position of staff. ( )

02. Prior Approval. The administrator shall obtain all necessary approvals prior to authorizing travel. ( )

276. PLANNING FOR REINTEGRATION.

01. Programs. Programs must promote continuity in programming and services for juveniles after they leave the program by assuring that essential information is forwarded to those agencies that will be providing services to the juveniles, and working closely with department staff throughout placement to plan for reintegration. ( )

02. Approval. Reintegration, by release from department custody or transfer, shall not take place without the involvement of the department's assigned juvenile services coordinator, and the approval in writing of the regional clinical supervisor and regional superintendent. ( )

03. Department Concurrence. Preparation for reintegration of a juvenile begins with the initial development of a service plan and is an ongoing process throughout the juvenile's program. Criteria for the juvenile's release from department custody or transfer shall be explained to him as soon as possible after admission to a program. ( )

04. Reintegration Plan. Within the first thirty (30) calendar days after a juvenile is admitted to a program, a written reintegration plan shall be formulated as one (1) part of the overall service implementation plan. The reintegration plan should include: ( )

a. The juvenile's anticipated length of stay; ( )

b. Specific program goals to be achieved while in the program; ( )

c. Living arrangements upon release from department custody or transfer; ( )

d. Resources necessary for the juvenile to continue to meet treatment goals in the community; ( )

e. Resources necessary for the juvenile to continue an appropriate education; and ( )

f. Terms of continued probation to the extent that they are known and addressed in progress reports. ( )

05. Written Recommendation. Contract providers shall provide to the juvenile services coordinator a written recommendation for release from department custody or transfer at least thirty (30) calendar days prior to the juvenile's anticipated completion of the program. This recommendation shall include: ( )

a. A current summary of the juvenile's progress; ( )

b. A summary of the efforts to reach the juvenile's goals and objectives, including education; ( )

c. Any unresolved goals or objectives; ( )

d. Reinforcement goals and objectives for parents, guardians, or reintegration workers; ( )

e. Recommendation for continuing services, including education, in the home community; ( )

f. The prognosis; and ( )

g. The current address of the recommended custodian. ( )

06. Reintegration Staffing. The juvenile services coordinator shall convene a reintegration staffing which will include the juvenile's probation officer, the contract provider, the juvenile's parent or guardian, an education representative, and the juvenile. Based upon the results of that staffing, the department will make the final decision regarding transfer or release from department custody. At a minimum, the reintegration staffing must consider and, to the extent possible, solidify plans to address any ongoing health, mental health, substance abuse, social skills, education, vocation, independent living, and other special needs. ( )

07. Check-Out Procedures. Prior to the release from department custody or transfer, the contract provider must have completed a Contract Provider Juvenile Check-Out Form supplied by the department. The form shall be dated, signed by the juvenile, and forwarded to the juvenile services coordinator on the actual date that the juvenile leaves the program. ( )

a. The contract provider shall immediately provide the juvenile's medication, prescriptions and Medicaid card, if applicable, to the individual or agency authorized to transport the juvenile. ( )

b. Within two (2) business days after a juvenile leaves the facility or program, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile attended while in the program shall be sent to the juvenile correctional center in Nampa. ( )

c. Within two (2) business days after a juvenile leaves the facility or program, the contract provider shall send a report showing the juvenile's total hours, credits, and associated grades directly to the juvenile correctional center in Nampa. The contract provider shall maintain adequate documentation to support the submitted education reports. Timely receipt of these records is critical to assist the transition of the juvenile to another educational facility. ( )

08. Termination Prior to Completion. ( )

a. When a contract provider believes a juvenile is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing with the regional clinical supervisor and, if necessary, the clinical services administrator, may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the contract provider to avoid the necessity of making another placement. The contract provider must document these efforts at problem solving. The department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the contract provider. The contract provider can request transfer of a juvenile in the following circumstances: ( )

i. A pattern of documented behavior clearly indicating a lack of progress; or ( )

ii. Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. ( )

b. In matters involving life, health, and safety of any juvenile in department custody, the department shall remove the juvenile immediately. ( )

c. A comprehensive summary shall include, at a minimum, a report on progress or lack of progress on all service implementation plan areas, and recommendations for follow-up. The summary shall be forwarded to the juvenile services coordinator within twenty-four (24) hours of release from department custody or transfer prior to program completion. ( )

d. In cases of all releases from department custody and transfers, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile attended while in the program shall be sent to the juvenile correctional center in Nampa. ( )

e. The summary shall be forwarded to the department within five (5) business days of the date of transfer or release from department custody, if the juvenile has completed the program. ( )

277. RESERVATION OF PROGRAM SLOTS.
When a program slot is to be reserved, the department shall contact the contract provider and request that the slot be reserved. Unless the clinical services administrator or designee gives specific approval, the maximum time for which a program slot may be reserved and the contract provider continue to receive payment is forty-eight (48) consecutive hours. ( )

278. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. ( )

a. All counseling services provided to juveniles, whether individual, group or family, must be performed by a clinician, counselor, or therapist as defined in these rules. ( )

b. Counseling should be planned and goal directed. ( )

c. Notes must be written for each service provided. The notes must be dated, clearly labeled either individual, group or family counseling, and each entry must be signed by the clinician, counselor, or therapist performing the service. ( )

d. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment. ( )

e. Counseling should be reality oriented and directed toward helping juveniles understand and solve specific problems; discontinue inappropriate, damaging, destructive or dangerous behaviors; and fulfill individual needs. ( )

f. The minimum standard for the frequency of counseling services shall be specified in the comprehensive program description attached to the contract with the department. ( )

g. There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services. ( )

h. Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. ( )

i. Programs must provide crisis intervention counseling if warranted by the assessment and circumstances. ( )

j. The contract provider must furnish adequate space for conducting private interviews and counseling sessions at the facility. ( )

k. Family counseling services must be available as a part of the juvenile's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile's removal from his home and the issue of his eventual reintegration back into the family unit. A statement of goals to be achieved or worked toward by the juvenile and his family should be part of the service implementation plan. ( )

02. Substance Abuse Treatment Services. As a minimum standard, programs must provide substance abuse education for all juveniles, and substance abuse treatment services as determined by assessment and indicated in the service implementation plan. Substance abuse treatment services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years experience in the substance abuse field. Juveniles receiving substance abuse treatment services shall have access to in-house or community Alcoholics Anonymous and Narcotics Anonymous meetings, or an orientation to the twelve-step program at the appropriate point in his treatment, or an introduction to a community intervention program if a twelve-step program is not appropriate for him. Notes documenting the service provided must be dated, clearly labeled "substance abuse treatment services," and each entry must be signed by the counselor performing the service. ( )

03. Suicide Prevention and Risk Management. In addition to the policy required in Paragraph 261.01.e., of this rule, contract providers must be able to demonstrate that they: ( )

a. Train staff regularly to identify, document and appropriately respond to behavior that may indicate a risk of suicide; ( )

b. Utilize medical or other staff trained by a mental health professional to review history, and interview and observe juveniles new to the program in order to complete suicide risk screening within two (2) hours of admission; ( )

c. Utilize a mental health professional to complete a suicide risk assessment on a juvenile who has been identified by staff as presenting a risk of suicide; ( )

d. Utilize mental health professionals to help develop a safety plan for each juvenile identified as presenting a risk for suicide, and to determine when that risk is reduced enough to reduce or terminate suicide precautions; and ( )

e. Prohibit the use of separation and isolation of juveniles identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided and that all juveniles in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. ( )

04. Social Skills Training Including Relapse Prevention Skills. Programs must assess each juvenile's social skills and document specific services provided to improve functioning in this area. Additionally, every juvenile must have developed a written relapse prevention plan prior to successfully completing the program. ( )

05. Health Services. Programs must be able to demonstrate compliance with the required policy concerning access to routine and emergency health and mental health care and, in addition, should provide a basic health curriculum for all juveniles. Contract providers must provide and document a health and suicide risk screening of each juvenile within two (2) hours of admission into the program. ( )

06. Vocational and Prevocational Services. Programs must be able to demonstrate that each juvenile's vocational interests and needs have been assessed and an appropriate level of services has been provided. These services may range from a specific vocational skills curriculum, offered on site or in the community, to a prevocational skills component, which at a minimum, involves juveniles in assessing their vocational interests and strengths. ( )

07. Basic Life Skills and Independent Living. Programs must be able to demonstrate that juveniles are taught basic life skills and that age-appropriate juveniles are involved in independent living skills consistent with their age and needs. This program should include, at a minimum, instruction in: ( )

a. Hygiene and grooming skills; ( )

b. Laundry and maintenance of clothing; ( )

c. Appropriate social skills; ( )

d. Housekeeping; ( )

e. Use of recreation and leisure time; ( )

f. Use of community resources; ( )

g. Money management; ( )

h. Use of public transportation, where available; ( )

i. Budgeting and shopping; ( )

j. Cooking; ( )

k. Punctuality, attendance and other employment-related matters; and ( )

l. Vocational planning and job finding skills. ( )

08. Recreational Services. Programs should have a written plan for providing recreational services based on individual needs, interests, and functional levels of the population served. ( )

a. The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of table games and other activities that encourage both solitary entertainment and small group interaction. An appropriately furnished area should be designated inside the facility for leisure activities. ( )

b. Programs should have staff educated and experienced in recreational programs to ensure good planning, organizing, supervision, use of facility, and community activities. Recreational activities considered part of the service implementation plan must be funded by the contract provider. The use of community recreational resources should be maximized, as long as community safety is assured. The contract provider must arrange for the transportation and provide the supervision required for any usage of community recreational resources. No juvenile shall be required to pay to participate in recreational activities made available through the program. ( )

279. EMPLOYMENT OF JUVENILES.

01. Employment. If juvenile employment away from the program site is a part of the program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juveniles locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The contract provider shall make periodic checks on the job-site to ensure the juvenile is working under acceptable conditions. The juvenile's employer shall be consulted regularly by the contract provider concerning the juvenile's work abilities and performance on the job-site. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juveniles in the program. Contract providers must make every reasonable effort to assure that each juvenile's transportation to and from a job-site is safe. ( )

02. Employment Opportunities. Every reasonable effort shall be made to select employment opportunities that are consistent with the individual interests of the juvenile to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment. Reasonable effort must be made to provide juveniles with the highest paying job possible. Income earned by a juvenile shall be handled consistent with Subsection 212.04, of these rules. ( )

280. RELIGIOUS SERVICES.
Programs must ensure that attendance at religious services is voluntary. No juvenile shall be required to attend religious services, and no juvenile shall be penalized for not attending nor given privileges for certain attendance. ( )

01. Voluntary Practice. All juveniles must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional or physical well-being of the juveniles in the facility. ( )

02. Attendance. Juveniles may be permitted to attend religious services of their choice in the community as long as community safety is ensured. ( )

03. Transportation. Programs must, when reasonably possible, arrange transportation for those juveniles who desire to take part in religious activities of their choice in the community. ( )

04. Risk to Community. If the juvenile cannot attend religious services in the community because staff has reason to believe he would attempt to escape, or otherwise present a risk to the safety of the community, the contract provider must make every reasonable effort to ensure that he has the opportunity to participate in religious services of his choice at the facility. ( )

05. Visits. Juveniles shall be permitted to receive visits from representatives of their respective faiths.

( )

06. Minor Juveniles. When the juvenile is a minor, the contract provider shall make reasonable effort to comply with the wishes of the legally responsible person with regard to religious observances. A program's staff schedule shall not encourage or discourage participation in general or specific religious services or activities. ( )

281. -- 299. (RESERVED).

300. EDUCATION SERVICES.

01. Appropriate Services. The contract provider shall ensure that each juvenile is given appropriate educational and vocational services that are consistent with the juvenile's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Contract providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juveniles to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided by contract providers must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the No Child Left Behind Act (NCLB), the Individuals with Disabilities Education Act (IDEA), the Family Educational Rights and Privacy Act (FERPA), and Section 504, Rehabilitation Act of 1973 (504). ( )

02. Mandatory Enrollment. Contract providers must ensure that all juveniles involved in their programs who are of mandatory school age, or who have not yet obtained a GED or high school diploma, are enrolled in a school system or in a program approved and certified by the Idaho Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service shall be provided in accordance with the service implementation plan. ( )

03. Cooperative Relationships. Contract providers may provide educational services through a cooperative agreement with the local education agency (LEA) or through an in-house educational program administered by the contract provider. If an LEA provides the services, it is expected that the contract provider will enter into a written agreement with a local education agency that clearly defines the services to be provided. The written agreement must include, at a minimum, all of the following: ( )

a. Level of participation in reintegration planning for each juvenile; ( )

b. That grades will be submitted, as required in Subsection 300.09 of these rules, within twenty-four (24) hours of transfer or release from department custody; ( )

c. Curriculum for special education services, if appropriate; ( )

d. A plan for the provision of state required testing; and ( )

e. Types of services that will be provided beyond the established limits of the regular school year for that school district. ( )

04. Costs of Educational Services. If an LEA agreement is developed, the Idaho Department of Education will flow education funds to the LEA in a manner consistent with current legislative funding mandates. A copy of the memorandum of understanding between the contract provider and the LEA must be provided to the department, and the source of funds to cover the costs for educational services clearly accounted for in the budget attached to the program description. If the contract provider elects to provide the services in-house, the cost of educational services will be included in the daily contract rate. The contract provider will not be eligible to receive educational funding through both of these sources. ( )

05. Accreditation Requirements. Each contract provider serving juveniles who have been committed to the department will have, or contract with, an education program that will meet the accreditation standards of the

Northwest Association of Schools and of Colleges and Universities or the Idaho Department of Education. ( )

06. Educational Assessment. Federal and state laws mandate that juveniles be provided with an appropriate education. Contract providers are responsible for providing an educational track which will best serve the needs of each juvenile, as determined by the assessment provided by the department through the observation and assessment process, or as determined by an assessment completed by a local school district. A copy of the relevant assessment and related current and valid educational plan, as well as all supporting documentation for each juvenile, must be maintained in a separate file and must be available to the department and to the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the student's permanent school records that are maintained at the juvenile correctional center in Nampa. ( )

a. Contract providers are responsible for ongoing, yearly reassessment of each juvenile's progress within the education program as well as documenting and reporting that progress. This responsibility extends to completing a reassessment just prior to release from department custody or transfer, and reporting academic gain both for individual juveniles as well as composite data for the education program overall. ( )

b. Consistent with statewide educational standards, contract providers are responsible for assuring that each juvenile is tested twice annually using the Idaho Standards Achievement Test (ISAT). Contract providers must also administer the Direct Math and Writing Assessments or other tests mandated by the administrative rules of the Idaho Board of Education. Any fees associated with the testing services will be the responsibility of the contract provider. ( )

07. GED and High School Equivalency (HSE) Eligibility. Contract providers must assure that General Educational Development tests (GED) will be administered to students meeting the criteria established in the administrative rules of the Idaho Board of Education for school districts. Contract providers must assist students who successfully complete GED testing with a minimum standard average score of four hundred fifty (450) and earn a credit in United States Government to apply for an Idaho High School Equivalency Certificate (HSE) from the Idaho Department of Education. All GED testing and HSE application fees will be paid by the contract provider. ( )

08. Special Education Services. ( )

a. The contract provider shall ensure that the special educational needs of juveniles are addressed. The contract provider's in-house program or cooperating LEA program must comply with the federal 504 and the IDEA, as well as any other applicable state or federal laws. Under no circumstances shall the contract provider or its teaching staff make modifications in the juvenile's 504 or IDEA educational program without conducting a Child Study Team meeting in consultation with the department's educational coordinator or designee. ( )

b. Contract providers must make every reasonable effort and thoroughly document all efforts to contact parents or guardians of juveniles identified as eligible for special education. If it is not possible to involve the natural parents or guardians, a surrogate parent must be appointed by the agency providing special educational services. This surrogate cannot be the director or other employee of an agency, institution, or community-based residential facility who is involved in providing care or education to a juvenile, or an employee of a state agency or agency volunteer, such as caseworker, social worker, or court-appointed special advocate who has been appointed by the state to provide for the welfare of the student. A surrogate parent is used only for special educational requirements and has no other legal authority. ( )

09. Standards for Instructional Time. Contract providers must assure that the school day is consistent with at least the minimum standard established for high schools by the Northwest Association of Schools and of Colleges and Universities. The length of the school day will further meet all requirements established by state and federal laws, regulations, and accreditation standards. Contract providers must provide an appropriate educational or vocational program for each juvenile for twelve (12) months of the year. At a minimum, this involves four (4) hours per day, five (5) days per week throughout the full calendar year. Juveniles involved in any disciplinary process shall not be denied their right to education and other related services. If security or other related concerns are present that may prohibit a juvenile's participation in educational programming, an educational plan review will be completed and documented in an incident report. If the juvenile is eligible for services under IDEA or 504, a Child Study Team will meet to make a determination as to whether or not the behavior is a result of the juvenile's handicap.

All due process procedures will be followed according to the administrative rules for special education. ( )

10. Educational Records and Confidentiality. ( )

a. Educational records shall be maintained by the contract provider at all times in accordance with FERPA. At a minimum, the following information shall be included in the record: ( )

i. Subjects taken; ( )

ii. Grades by subject and explanation of the grading system; ( )

iii. Units of credit with explanation; ( )

iv. Attendance records; and ( )

v. Any standardized test scores. ( )

b. Reports of the juvenile's educational progress shall be provided in the manner and within the time periods specified in these rules. At a minimum, this requires the documentation of monthly progress notes and a written progress report every second month. ( )

c. Contract providers must ensure that juvenile educational files are consistently maintained to ensure compliance with FERPA. ( )

d. When a juvenile is released from department custody or transferred, the permanent education file shall be updated by the department's education records technician. The contract provider will provide final withdrawal grades and credits within twenty-four (24) hours or next working day after the juvenile is released from department custody or transferred. Working educational files shall be returned to the juvenile correctional center in Nampa within ten (10) business days of the juvenile's release from department custody or transfer. ( )

301. -- 319. (RESERVED).

320. PRIVACY OF MEDICAL RECORDS AND INFORMATION.
Confidentiality of personal health information of each juvenile shall be maintained in accordance with the Privacy Regulations promulgated under HIPAA of 1996 or, if more stringent, the laws of the state of Idaho. Compliance with these regulations is the responsibility of the contract provider. Staff shall be provided information about a juvenile's medical condition only when that knowledge is necessary for the performance of their job duties. ( )

01. Privacy Officer. The contract provider shall appoint a privacy officer to oversee that the control and maintenance of all juvenile health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ( )

02. Separate Records. All juvenile medical and health records shall be kept in files that are physically separated from other juvenile files and information, and under a system of security against unauthorized access. ( )

321. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile shall be provided with medical, dental, optical, mental health, emergency or any other related health services while in the contract provider's care. Each contract provider shall have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juveniles with professional and qualified physical or mental health services, including medications. Health, mental health, and suicide risk screening must be provided within two (2) hours of a juvenile's admission to a program. Comprehensive and professional health and mental health assessments must be provided by the contract provider within thirty (30) calendar days of admission, unless these are provided by the department. ( )

02. Medical Consent. As part of the admission process, the contract provider must have a copy of the

department's Release of Information and Consent form signed by a juvenile's parent, guardian, or committing authority. The consent form shall be filed in the juvenile's medical and case files maintained by the contract provider. ( )

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the department, reasonable efforts must be made to obtain the consent of the parent or guardian. The signature of only one (1) parent or guardian is sufficient to form consent or authorization. Should the parent or guardian not be available or refuses to sign, the authorization may be signed by the department's regional R.N. or designee. This does not restrict the contract provider from taking action in life and death situations. ( )

04. Reimbursement Sources. The contract provider shall utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile. The contract provider shall not seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the contract provider pursuant to its contract with the department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the department's regional R.N. or designee, will be at the expense of the contract provider. ( )

322. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

01. Compliance With Child Care Licensing Rules. Admission and annual health services shall be provided to juveniles in accordance with the child care licensing rules of the Idaho Department of Health and Welfare, unless otherwise provided in these rules. ( )

02. Prior Approval. No prior approval or review from the department's regional R.N. is required for admission and annual health services. Examples of admission and annual health services for which no prior approval or review is required are: ( )

a. Admission physical exams, including STD exams and treatment, as well as PAP smears; ( )

b. Admission dental exams, including x-rays (no Panorex), and cleanings (no sealants); ( )

c. Admission eye exams and glasses, if needed; ( )

d. Annual physical exams, including STD exams and treatment, PAP smears; ( )

e. Annual dental exams with x-rays (no Panorex), and cleanings; and ( )

f. Annual eye exams, if needed, and new glasses only if needed. ( )

03. Medical Records. Any time a juvenile receives treatment under this section or for any similar service, the contract provider shall retain the original medical record regarding treatment and send a copy to the department's regional R.N. immediately to ensure that accurate and current health records are maintained for each juvenile. ( )

323. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.
The contract provider shall immediately report critical health incidents according to Subsection 262.02, of these rules. ( )

324. COMMUNICABLE DISEASES.

01. Policies. ( )

a. The contract provider shall establish policies and procedures for serving juveniles with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of communicable diseases, provide an orientation for new staff and juveniles concerning the diseases, and ongoing education for staff and juveniles regarding these diseases. Policies and procedures should be updated as

new information becomes available. Individual health information or counseling will be made available by a qualified health professional for juveniles diagnosed with a communicable disease. ( )

b. The contract provider shall comply with the child care licensing rules of the Idaho Department of Health and Welfare regarding universal precautions. ( )

02. HIV Testing. In accordance with law, a juvenile over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ( )

03. Examinations. Examinations shall be performed on any juvenile by medical professionals for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juveniles will be tested and, if indicated, treated. ( )

04. Confidentiality. Confidentiality shall be maintained. ( )

325. PREGNANCY.

01. Individual Treatment Plan. Within the individual treatment plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan shall be based on the orders of the juvenile's community obstetric physician and shall include special care, location for delivery, regular medical check-ups, and special dietary and recreational needs. A copy of the individual treatment plan will be sent to the department's regional R.N. ( )

02. Parenting Classes. Parenting classes shall be an integral part of the individual treatment plan for all pregnant juvenile females. This service should also be offered as a priority to juvenile males in department custody who are already fathers or whose spouse or girlfriend is expecting a child. ( )

03. Medicaid Reimbursement. Medical services relating to pregnancy shall be provided by a physician and hospital accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile's family. ( )

04. Infant Care. When an infant is delivered and the mother continues in department custody, the infant shall be placed with an appropriate family member or in the temporary care of the Family and Children Services Division of the Idaho Department of Health and Welfare, subject to any necessary court approval. At no time shall the infant remain in the contract provider's facility. ( )

326. REFUSAL OF TREATMENT.

01. Refusal of Recommended Treatment by Physician. If a juvenile chooses to refuse treatment or medication recommended by a physician, the juvenile must sign a detailed statement refusing this care. A contract provider staff member must witness the juvenile's signature. This refusal form will be filed in the juvenile's medical record. ( )

02. Where Refusal Poses Significant Risk. If a juvenile refuses a treatment or medication for a condition which poses a significant risk of death or permanent physical impairment, the contract provider shall issue its approval for the immediate administration of the medical treatment or medication in accordance with standard practice. If danger to the juvenile is not imminent, the contract provider shall contact the clinical services administrator and notify the department's regional R.N. of the juvenile's refusal. ( )

327. USE OF MEDICATIONS.

A program shall have written policies and procedures governing the use and administration of medication to juveniles. Policies shall conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare. If initiating or modifying any medication, the department's regional R.N. must be notified. ( )

01. Psychotropic Medication. When psychotropic medication has been prescribed to a juvenile by a licensed physician, nurse practitioner, or physician's assistant, the contract provider shall notify the department's

regional R.N., the juvenile's parent or guardian, the juvenile services coordinator, and the juvenile probation officer within three (3) business days. The notice shall include: ( )

a. The name of the prescribed medication; and ( )

b. The name and phone number of the doctor, nurse practitioner, or physician's assistant, who can explain the reason the medication was prescribed and any possible side effects. ( )

02. Reason for Administering Medication. The contract provider shall have staff available to explain to a parent or guardian, the juvenile services coordinator, and the department's regional R.N., the reason for making a referral to a physician who has prescribed psychotropic medication. The contract provider shall assure that any physician prescribing psychotropic medication is willing to discuss with a parent or guardian and department staff the reason the psychotropic medication was prescribed and the potential side effects of the medication. ( )

328. SUICIDE PRECAUTIONS.
All contract providers must have a written plan for responding to juveniles who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting appropriate health authorities and the department, and a plan of direct supervision of a juvenile until a suicide crisis has ended. A suicide risk screening must be completed on every juvenile within two (2) hours of admission. ( )

329. FIRST AID KITS.
Each contract provider shall maintain first aid kits in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Standards for Child Care Licensing". The first aid kits shall be kept locked and shall be placed in areas of the facility readily accessible to staff. ( )

330. -- 999. (RESERVED).

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-520(1)(q), 20-532, and 20-504(11), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amending Sections 101 and 201 to clarify that juveniles must be seen by the Custody Review Board (CRB), not just referred, prior to age nineteen (19). Also, if the CRB sees a juvenile but does not retain him, the juvenile may be kept in custody for no more than forty-five (45) days after turning nineteen (19) for transition plans to be finalized.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because stakeholder input was used in clarification of this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 North 10th St., 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0285
208-334-5100 ext. 384
208-334-5120 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 05-0103-0401

101. POWERS AND DUTIES.

01. Review. The Custody Review Board is empowered by Sections 20-520(1)(q) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the department whose cases have been referred to the board according to Section 201 of these rules. (5-3-03)

02. Board Opinions. After conducting its review, the Custody Review Board shall advise the department's director whether, in their opinion, the juvenile before them needs an extended time in custody to address accountability, community protection, and competency. (5-3-03)

03. Indeterminate Sentence Remains. The Custody Review Board cannot direct the placement, treatment or final release decision of a juvenile in the department's custody, and any determination by the board that extended time in custody is needed by a juvenile shall not create a determinate sentence of any kind. (5-3-03)

04. Release Date for Juveniles. If a juvenile has appeared before the Custody Review Board and the board has concluded that he not be retained in custody, the director shall set a release date for the juvenile, as follows: ( )

a. If a juvenile appears before the board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the department may retain the juvenile long enough to finalize those plans, but not to exceed forty-five (45) days after the juvenile's nineteenth birthday. ( )

b. In all other cases, the department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, but not to exceed forty-five (45) days after the board's opinion has been rendered. ( )

(BREAK IN CONTINUITY OF SECTIONS)

201. REFERRAL OF CASES TO THE BOARD.
The Custody Review Board shall review cases referred to it and will advise the director whether, in its opinion, extended time in custody is necessary for a juvenile to address competency, accountability and community protection. (5-3-03)

01. Cases Eligible for Referral. A juvenile's case is eligible for referral to the board ~~*only if one (1) of the following situations exists*~~ in either of the following circumstances: ~~*(5-3-03)*~~( )

a. If ~~*T*~~the juvenile is ~~*within at least*~~ no more than six (6) months ~~*of*~~ from his nineteenth birthday ~~*at the time of referral,*~~ and one (1) or more members of the juvenile's case management team~~,~~ believes that the juvenile ~~*may*~~ needs extended time in custody beyond that juvenile's nineteenth birthday; or ~~*(5-3-03)*~~( )

b. If ~~*T*~~the juvenile is past age nineteen (19), ~~*is*~~ has already been retained in the department's custody based on an earlier opinion of the Custody Review Board, and one (1) or more members of a juvenile's case management team, the Custody Review Board, or the director of the department~~,~~ believes that an additional case review is in the best interest of the juvenile or others affected. ~~*(5-3-03)*~~( )

02. Juvenile Has Not Appeared Before the Custody Review Board. Any juvenile who has not appeared before the Custody Review Board in person or by video conference prior to the date of his nineteenth birthday shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date shall not exceed forty-five (45) days after the juvenile's nineteenth birthday. ( )

0~~2~~3. Hearing Schedules. Once a case is referred, the board shall set a date for the review hearing. Unless the board decides otherwise, no case will be heard more often than every six (6) months. (5-3-03)

0~~3~~4. **Written Submissions**. All written documents and letters to be considered at a particular hearing must be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the board members present. Documents may include: (5-3-03)

a. Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (5-3-03)

b. Report on original offenses leading to commitment plus order for commitment and orders of judgment; (5-3-03)

c. Written recommendations from each member of the treatment team; (5-3-03)

d. Polygraph results and written conclusions and recommendations from the professionals administering these tests; (5-3-03)

e. Psychosocial or psychosexual evaluations; (5-3-03)

f. Victim's written statement; (5-3-03)

g. Juvenile's written statement; (5-3-03)

h. Initial classification; (5-3-03)

i. Custody level assessment at case review; and (5-3-03)

j. Any other pertinent information. (5-3-03)

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.04 - UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES

DOCKET NO. 05-0104-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(11) and 20-504(14), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking: To create a new chapter to implement and establish uniform standards for county juvenile probation services, pursuant to Section 20-504(14), Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because meetings were held with stakeholders.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop, Deputy Attorney General
Idaho Department of Juvenile Corrections
400 North 10th St. 2nd Floor
P.O. Box 83720, Boise, Idaho 83720-0285
208-334-5100 ext. 384, 208-334-5120

THE FOLLOWING IS THE TEXT OF DOCKET NO. 05-0104-0401

IDAPA 05, TITLE 01, CHAPTER 04

05.01.04 - UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES

000. LEGAL AUTHORITY.

01. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67,

Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. ( )

02. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the Idaho Department of Juvenile Corrections, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.04, "Uniform Standards for Juvenile Probation Services". ( )

02. Scope. These rules are established to ensure that all county juvenile probation services operate under consistent standards based on the principles of accountability, community protection, and competency development. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements, which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 400 N. 10th St., 2nd Floor, P.O. Box 83720, Boise, Idaho 83720-0285. ( )

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the administrative requirements for agencies. ( )

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into these rules. ( )

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

01. Idaho Department of Juvenile Corrections. The Idaho Department of Juvenile Corrections is located at 400 N. 10th St., 2nd Floor, Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections' rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. The facsimile number of the office is (208) 334-5120. ( )

02. Idaho State Police, Peace Officer Standards and Training. The principal place of business of the Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295. ( )

006. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the Idaho Department of Juvenile Corrections are subject to these rules and the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Assessment. The process of acquiring an understanding of a problem, what causes it, and what can be changed to minimize or resolve it. ( )

02. Case Plan. A procedure to plan, seek, and monitor services from different agencies and staff on behalf of the juvenile, with attention given to accountability, community protection, and competency development. ( )

03. Discretionary or Unscheduled Detention Days. Time, in days, placed on hold for a juvenile to be used at the discretion of the court in accordance with the agency's policy and procedure. ( )

04. Diversion Agreements. A contract entered into by the juvenile and his parents with the probation department, utilizing community resources, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court. ( )

05. Idaho Juvenile Risk Assessment. Document that was developed and approved as a statewide risk assessment, measuring the juvenile's life areas to determine his risk to the community and risk to re-offend. ( )

06. Juvenile Probation Department. Any public or private agency administered by or contracted with the court, made up of one (1) or more staff to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. ( )

07. Juvenile Probation Officer. An employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. ( )

08. Social History. An in-depth description and assessment of the current and past juvenile situation, including but not limited to family history and dynamics, medical information, previous criminal information as well as family criminal history, educational and employment information, victim information, developed into a formal document to present to the court for review, noting the juvenile probation officer may or may not offer recommendation regarding supervision. ( )

09. Use of Force. Physical force used in instances of justifiable self-defense, protection of others or protection of property. ( )

010. -- 099. (RESERVED).

100. STANDARDS FOR JUVENILE PROBATION SERVICES.
Each juvenile probation department shall have policies and procedures regarding the following: ( )

01. Services. Services provided to juveniles and their families supporting the "Balanced Approach Model". The elements of the "Balanced Approach Model" include accountability, community protection, and competency development. ( )

02. Assessments, Social Histories, and Case Plans. How to conduct assessments of juveniles under probation supervision as well as the preparation of social histories and case plans, including that all assessments, social histories, and case plans be maintained in some form of retrievable record; written, electronic, or as otherwise appropriate. ( )

03. Monitoring or Enforcing. Monitoring or enforcing court orders shall include the use of graduated sanctions. ( )

04. Community Supervision. Maintaining community supervision of juveniles in the home, school, and community, based on risk assessment of the juvenile, using at a minimum, the Idaho Juvenile Risk Assessment, or a similar assessment instrument. ( )

05. On-the-Job and Other Training. Annual job-related training for juvenile probation officers may include field and on-the-job training and other training. Each policy and procedure shall identify a system for proper documentation of types of training, hours, and attendance. These policies and procedures shall require, at a minimum, twenty (20) hours annually of training or course work in the following: ( )

a. The Idaho Juvenile Corrections Act; ( )

b. Balanced approach; ( )

c. Report writing; ( )

d. Probation officer safety; ( )

e. State and county statutes and rules; ( )

f. Status offender supervision, in accordance with Section 20-516, Idaho Code; ( )

g. Case supervision for minimum, moderate, and high risk populations; and ( )

h. Gender specific case supervision. ( )

06. Professional Responsibility. A copy of the Idaho Juvenile Probation Officer Code of Professional Responsibility as described in Section 200, of these rules, shall be kept in each juvenile probation department. ( )

07. Case Documentation. Complete, thorough, and concise, written case documentation, including, but not limited to, ongoing case contact notes with the juvenile and other pertinent parties. ( )

08. Professional Contact. Identifying what will be considered appropriate and professional contact with juveniles under court supervision. This policy and procedure shall also address the frequency and location of contacts with juveniles. ( )

09. Use of Force. Use of force, defusing volatile situations, and documenting and reporting incidents that include the use of force. The policy and procedure shall require individual written and signed reports by probation department personnel and shall include date, time, and circumstances of the incident or the use of force, and identify known witnesses. ( )

10. Transportation of Juveniles. At a minimum, this policy and procedure must require that all juvenile probation officers involved in the transport of a juvenile have a valid and active Idaho driver's license in good standing, and that appropriate insurance is in effect for the transporting officer. ( )

11. Reporting Abuse. The legal requirement for reporting physical and sexual abuse in accordance with Section 16-1619, Idaho Code, Child Protective Act. ( )

12. Search and Seizure. Each juvenile probation department that conducts searches shall have a policy and procedure regarding search and seizure. ( )

13. Drug Testing. Drug testing, and documentation of testing of any juvenile under court order or diversion agreements. ( )

14. Minimum Job Qualifications. Minimum job qualifications and background information required at the time of a probation officer's employment. These job qualifications are set forth in IDAPA 11.11.03, "Rules of the Idaho Peace Officer Standards and Training Council". ( )

15. Medical Records. Confidentiality of juvenile records, access to medical records under the guidelines of HIPAA (Health Information Portability and Accountability Act), and Rule 32 of the Idaho Court Administrative Rules. ( )

16. Unscheduled Detention Time. Use of unscheduled detention time or discretionary days in detention. ( )

17. Emergencies. Responding to emergency medical situations of juveniles under probation supervision. ( )

101. -- 199. (RESERVED).

200. PROFESSIONAL RESPONSIBILITIES.
Juvenile probation officers have professional responsibilities as it relates to the following: ( )

01. Legal Rights. Respect and protect the civil and legal rights of the juvenile. ( )

02. Discrimination. Refrain from discriminating against any individual because of race, gender, creed, national origin, religious affiliation, age, disability, or any other type of prohibited discrimination. ( )

03. Protection. Respect and protect the right of the public to be safeguarded from criminal activity. ( )

04. Welfare. Treat every professional situation with concern for the welfare of the individuals involved and with no intent to personal gain. ( )

05. Performance. Refrain from using their positions to secure personal privileges or advantages, or allow personal interests to impair objectivity in the performance of duties while acting in an official capacity. ( )

06. Formal or Informal Activity. Refrain from entering into any formal or informal activity or agreement, which presents a conflict of interest or is inconsistent with the conscientious performance of duties. ( )

07. Gifts. Refrain from accepting any gift, service, or favor that is or appears to be improper or implies an obligation inconsistent with the free and objective exercise of professional duties. ( )

08. Confidentiality. Adhere to state and federal statutes regarding issues of confidentiality of supervised juveniles, and refrain from identifying juveniles, or discussing critical problems or incidents outside of the official work setting. ( )

09. Private Information. Preserve the integrity of private information; refrain from seeking information on individuals beyond what is necessary to implement responsibilities and to perform their duties; and refrain from revealing nonpublic information unless expressly authorized to do so. ( )

10. Quality of Service. Maintain relationships with colleagues that promote mutual respect within the profession and improve the quality of service. ( )

11. Criticism. Refrain from public criticism of their colleagues or their agencies or courts except when warranted, verifiable, and constructive. ( )

12. Unethical Behavior. Report to appropriate authorities any corrupt or unethical behavior in which there is sufficient evidence to justify review. ( )

13. Civil Service Rules. When acting in the role of administrator, make all appointments, promotions, and dismissals in accordance with established civil service rules, applicable contract agreements, and individual merit, rather than furtherance of personal interests. ( )

14. Workplace. Respect, promote, and contribute to a workplace that is safe, healthy, and free of harassment in any form. ( )

15. Balanced Approach. Encourage program development, which promotes the ideals of the Balanced Approach identified in Subsection 100.01, of these rules, and the Juvenile Corrections Act. ( )

16. Reports. Diligently work to ensure that all information included in their reports concerning juveniles, colleagues, and others is timely, relevant and accurate. ( )

17. Continuing Education. Provide competent supervision of juveniles through continuing education, training and keeping abreast of current trends and developments. ( )

201. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-0403

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

NOTICE OF CHANGE OF MEETING LOCATION

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1006, Idaho Code.

HEARING SCHEDULE: Hearings on the negotiated rulemaking will be held as follows:

The November 18, 2004 meeting was originally scheduled to be held at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642. The meeting is now rescheduled to be held:

November 18, 2004 – 7:30 a.m. to 8:30 a.m.
Holiday Inn, 1399 Bench Road, Pocatello, Idaho 83201

Additional hearings will be scheduled to take place in 2005. The schedule will be available after November 18, 2004 and may be accessed on the Internet at http://www2.state.id.us/dbs/electrical/board.html. For information regarding dates, times and locations contact Gary Malmen, Electrical Bureau Chief, 208-332-7147.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

Individuals may present oral comments at the time of the hearings. If it becomes necessary, the time available to each individual may be limited and repetitive comments may be restricted. Anyone may submit written comments during this negotiated rulemaking. Written comments may be submitted at the hearings, or must be directed to the undersigned and delivered to the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, within five (5) days immediately following the final scheduled hearing of 2005.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Idaho Electrical Board wishes to solicit public and industry input on changing the requirements for an electrical contractor's license. Currently, the rules require the applicant to be a supervising journeyman electrician; the proposed change would require the applicant to be a supervising master electrician.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Gary Malmen, Electrical Bureau Chief, 208-332-7147.

DATED this 25th day of August, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100
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IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING

DOCKET NO. 07-0104-0401

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 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.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 26 through 28.

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

DATED this 25th day of August, 2004.

Dave Munroe, Administrator
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IDAPA 07, TITLE 01, CHAPTER 04

RULES GOVERNING ELECTRICAL SPECIALTY 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 04-8, August 4, 2004, pages 26 through 28.

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

07.01.05 - RULES GOVERNING EXAMINATIONS

DOCKET NO. 07-0105-0401

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 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.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 29 and 30.

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

DATED this 25th day of August, 2004.

Dave Munroe, Administrator
Division of Building Safety
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Fax: 208-855-2164

IDAPA 07, TITLE 01, CHAPTER 05

RULES GOVERNING EXAMINATIONS

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 29 and 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 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-0402

NOTICE OF RESCISSION OF TEMPORARY RULE

EFFECTIVE DATE: The rescission of this temporary rule is effective August 11, 2004.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 54-1006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

The temporary rule is being rescinded because new products have recently become available that allow for safer installation and fusing of luminaires. The Division of Building Safety is promulgating a proposed and temporary rule to further address the issue.

The original text of the temporary rule was published in the May 5, 2004 Idaho Administrative Bulletin, Volume 04-5, pages 58 and 59. This rescission is effective August 11, 2004 and the temporary rule is being replaced by another temporary rule that is being promulgated in conjunction with this rescission and is published in this Bulletin following this notice under Docket No. 07-0106-0403.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Gary Malmen, Electrical Bureau Chief, at (208) 332-7147.

DATED this 25th day of August, 2004

Dave Munroe, Administrator
Division of Building Safety
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THIS TEMPORARY RULE IS RESCINDED AND IS NO LONGER EFFECTIVE.

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 11, 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 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 temporary and proposed rule change incorporates information regarding new products that have become available and are suitable for safer installation and fusing of luminaires mounted on light poles. The rule change is necessary to address the potential safety hazard created by the practice of mounting an electrical service disconnect switch onto the outside of a luminaire pole.

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

The adoption of the temporary rule is necessary to protect public safety by eliminating the mounting of electrical service disconnects onto the outside of a luminaire pole, which leaves the disconnect exposed to vandalism and damage by lawn mowers.

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 are no fees or charges being imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Electrical Board determined the need for the rule to be an emergency. The issue was discussed at public Board meetings thereby allowing the public's input.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gary Malmen, Electrical Bureau Chief, 208-332-7147.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0106-0403

011. NATIONAL ELECTRICAL CODE, 2002 EDITION.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2002 Edition, is hereby adopted for the state of Idaho and shall be in full force and effect on and after July 1, 2002, with the exception of Article 80 and the following: (5-3-03)

a. Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. (5-3-03)

b. Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (5-3-03)

c. Compliance with Article 210.12(B) shall not apply to the fire/smoke alarm branch circuit outlet. (5-3-03)

d. Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791–DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device(s) (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-away fuse holder(s) accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. (8-11-04)T

02. Availability. This document is available at the office of the Division of Building Safety, Electrical Bureau 1090 E. Watertower St., Meridian, Idaho. (5-3-03)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE

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

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2606, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change is necessary to prevent excessive inspection fees for the installation of multipurpose residential fire sprinkler and domestic water supply systems in a one or two family residence. Fire sprinkler systems integrated with potable water plumbing systems have only recently been introduced in Idaho. Current administrative rules do not provide for inspection fees for each sprinkler head unless the Plumbing Bureau charges eight dollars ($8) for each sprinkler head on a per fixture basis per IDAPA 07.02.03.011.01.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Plumbing Board felt the lower fees would be beneficial to the public. The fees were discussed at public Board meetings thereby allowing the public's input.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Dave Munroe, Administrator
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Meridian, Idaho 83642
Phone: 208-332-7100
Fax: 208-855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0203-0401

011. FEE SCHEDULE.

01. Residential. To include all single family dwellings, apartments, condominiums, townhouses, and/or multiple living units: Each living unit in an apartment, condominium, townhouse, or other multiple living unit shall require a residential permit fee for each living unit. Permit fee -- thirty dollars ($30); plus an inspection fee of eight dollars ($8) per fixture (excluding garbage disposals and dishwashers in new construction) in the plumbing system of the building or premises. Replacement of fixtures in residences requires a permit of thirty dollars ($30) plus eight dollars ($8) per fixture. Separate permits are required for all residential sewer and water service line installations as per IDAPA 07.02.03, Subsection 011.08 and IDAPA 07.02.03, Subsection 011.10. (7-11-89)

02. Nonresidential. To include commercial, industrial, and other installations: The inspection fees listed in this Section shall apply to any and all plumbing installations not specifically mentioned elsewhere in this schedule. The plumbing cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all plumbing materials and equipment installed as part of the plumbing system. For uniformity of fees when labor is performed, such labor cost shall be based upon the market value of said labor. Permit fee: To include inspection of the water service pipe to the building and waste discharge pipe from the building if the work is done by the plumbing contractor who permits the building plumbing - thirty dollars ($30); plus an inspection fee based on the selling price of the completed installation, to be: Three percent (3%) of the value of the installation up to and including twenty thousand dollars ($20,000); plus, two percent (2%) of the value of the installation in excess of twenty thousand dollars ($20,000) up to and including one hundred thousand dollars ($100,000); plus, one percent (1%) of the value of the installation in excess of one hundred thousand dollars ($100,000) up to and including two hundred thousand dollars ($200,000); plus, one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars ($200,000). Schools, hospitals, churches, hotels, and motels are classed as commercial. The thirty dollars ($30) minimum permit fee applies to all new construction and to remodel or alteration jobs. Replacement of fixtures in existing commercial and industrial buildings requires the inspection fee of thirty dollars ($30) plus eight dollars ($8) per fixture (water heaters, lavatories, etc.). Fixtures common only to commercial and industrial, shall be inspected at the eight dollars ($8) rate per unit. Separate permits as per IDAPA 07.02.03, Subsection 011.09 and IDAPA 07.02.03, Subsection 011.12 will be required for sewer and water service lines, if not done by the plumbing contractor doing the building plumbing. (7-11-89)

03. Commercial Coaches/Manufactured Buildings. All commercial coaches and manufactured buildings constructed in Idaho or constructed for use in Idaho must purchase permits as per the residential fee schedule. (7-11-89)

04. Mobile Homes. Each connection or re-connection to existing sewer and water stubs shall be forty dollars ($40). (7-11-89)

05. Mobile Home Parks and/or RV Parks. Sewer and water service lines in mobile home parks and/or RV parks shall be classed as commercial. NOTE: This does not include or permit the connection of the mobile home. See IDAPA 07.02.03, Subsection 011.04. (7-11-89)

06. Residential. Lawn sprinklers shall be thirty dollars ($30) plus eight dollars ($8) for each backflow prevention device. (7-11-89)

07. Water Conditioners. Water conditioners shall be thirty dollars ($30) plus eight dollars ($8) per unit. (7-11-89)

08. New Installations and Replacements. Residential sewer and water service line fees shall apply to all new installations and replacements. See IDAPA 07.02.03, Subsection 011.10. (7-11-89)

09. Sewer and Water Permit Fees. Sewer and Water Permit Fees for excavators or property owners shall be at the same rate as residential or commercial based on the classification of the construction project. (7-11-89)

10. Residential Sewer and Water Service Lines Installation Permit Fees. Thirty-eight dollars ($38) each or fifty dollars ($50) for a combination of both if only one (1) inspection is required and the work is done by the same individual. (7-11-89)

11. **Non-residential**. Lawn sprinkler permit fees shall be calculated at the same rate as nonresidential plumbing; three percent (3%) of the value of the installation up to and including twenty thousand dollars ($20,000), plus two percent (2%) of the value of the installation in excess of twenty thousand dollars ($20,000) up to and including one hundred thousand dollars ($100,000), plus one percent (1%) of the value of the installation in excess of one hundred thousand dollars ($100,000) up to and including two hundred thousand dollars ($200,000), plus one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars ($200,000).(7-11-89)

12. **Nonresidential Sewer and Water Service Lines Permit Fees**. If installed by someone other than the plumbing contractor of the building, fees shall be calculated at the same rate as nonresidential plumbing; three percent (3%) of the value of the installation up to and including twenty thousand dollars ($20,000), plus two percent (2%) of the value of the installation in excess of twenty thousand dollars ($20,000) up to and including one hundred thousand dollars ($100,000), plus one percent (1%) of the value of the installation in excess of one hundred thousand dollars ($100,000) up to and including two hundred thousand dollars ($200,000), plus one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars ($200,000). (7-11-89)

13. **Requested Inspections of Existing Plumbing**. Thirty-eight dollars ($38) minimum for one (1) hour or less. Over one (1) hour, thirty-eight dollars ($38) plus nineteen dollars ($19) for each one-half (1/2) hour or portion thereof in excess of one (1) hour, including travel time. (7-11-89)

14. **Reinspection**. The cost of reinspection shall be thirty-eight dollars ($38). (7-11-89)

15. **Other**. Fee for permits not clearly giving location of installation, either by direction or maps -- thirty dollars ($30). (7-11-89)

16. **Plan Checking Fee**. Thirty dollars ($30) minimum for one (1) hour or less. Over one (1) hour -- thirty dollars ($30) plus fifteen dollars ($15) for each one-half (1/2) hour or portion thereof. (7-11-89)

17. **Technical Service Fee**. Thirty-eight dollars ($38) minimum for one (1) hour plus nineteen dollars ($19) for each one-half (1/2) hour or portion thereof. (7-11-89)

18. **No Permit**. Failure to send permit and required fee in the prescribed time will, at the discretion of the Department, result in the assessment of a double fee. (7-11-89)

19. **Multipurpose Residential Fire Sprinkler and Domestic Water Supply System Fee**. The inspection fee for the installation of the fire sprinkler portion of a multipurpose residential fire sprinkler and domestic water supply system in a one- or two-family residence shall be a minimum of sixty dollars ($60) or four dollars ($4) per fire sprinkler head, whichever is greater. ( )

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Sections 54-2606 and 54-2614A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 temporary and proposed rule change is necessary to comply with Section 54-2614A, Idaho Code, which establishes a staggered schedule of apprentice and specialty apprentice registration and renewal effective July 1, 2004.

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

This year's HB 528a applies an effective date of July 1, 2004 to Section 54-2614A, Idaho Code, which provides for a staggered schedule of apprentice and specialty apprentice registration and renewal.

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 Section 54-2614A, Idaho Code requires the change in administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-0401

011. APPRENTICE REGISTRATION.
The minimum age for any apprentice shall be sixteen (16) years. All apprentices shall be registered with the department. The registration fee shall be as prescribed by Section 54-2614, Idaho Code. No examination is required. In order to maintain registration properly, an individual must be working at the trade under the constant on-the-job supervision of a journeyman and in the employ of a contractor. He must also be enrolled and active in an approved related training class for a total of four (4) years. A grade average of seventy percent (70%) must be maintained in these courses. Upon completion of apprenticeship training, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to his application for a journeyman license. In order to maintain registration, the apprentice shall renew his registration ~~*each year before December 31*~~ annually in the month of his initial registration. The renewal fee shall be as prescribed by Section 54-2614, Idaho Code. ~~*(8-25-88)*~~(7-1-04)T

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0402

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2005.

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 Sections 54-2606 and 54-2617, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 temporary and proposed rule change is necessary to comply with Section 54-2617, Idaho Code, which establishes a staggered schedule of issuing and renewing certificates of competency effective January 1, 2005.

The rule change revises the expiration date of the plumbing contractor and journeyman certificates of competency from December 31st of each year to the month in which the certificate was issued (every three (3) years after initial implementation). Under the staggered schedule, fees will be prorated based on the number of months for which the certificate of competency is issued.

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

Section 54-2617, Idaho Code requires the Idaho Plumbing Board to promulgate rules providing for a staggered schedule of issuing and renewing certificates of competency effective January 1, 2005.

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 Section 54-2617, Idaho Code requires the change in administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Dave Munroe, Administrator
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-0402

013. PLUMBING CONTRACTOR.

01. Qualifications for Plumbing Contractor. A plumbing contractor must be certified as competent by the board and the director of the department before he offers his service to the public. To obtain the certificate, he must first submit an acceptable application. The application must show, among other things, a provable minimum of two and one-half (2 1/2) years experience as a journeyman plumber either in the state of Idaho or another State. Such experience may be proven by the submission with the application of a photostatic copy of the license from another jurisdiction, which has been held for the required period of time. However, if the applicant is from a state which does not require or provide for formal journeyman licensing, then said experience may be proven by the submission of three (3) sworn affidavits from individuals attesting to the fact that the applicant has had at least two and one-half (2 1/2) years experience as a journeyman plumber. Applications which are incomplete in any detail will be returned as unacceptable. A compliance bond must also be on file in the department before an examination will be given. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and must accompany the application. (8-25-88)

02. Restrictive Use of Contractor Certificate. Any individual holding a contractor certificate and designated by a firm to represent that firm for licensing purposes shall represent one (1) firm only, and shall immediately notify the department in writing when his working arrangement with that firm has been terminated for purposes of becoming self-employed or affiliation with another firm, or for any other reason. A license holder cannot represent any other person or firm, self-employed or otherwise, than originally stated on his application for license. When a change is made, he is required to so inform the department. Otherwise, he is guilty of transferring his license in violation of Section 54-2610, Idaho Code, and is subject to license suspension, revocation, or refusal to renew under Section 54-2608, Idaho Code, or to prosecution under the provisions of Section 54-2628, Idaho Code. (8-25-88)

03. Previous Revocation. Any applicant for a plumbing contractor's license who has previously had his plumbing contractor's license revoked for cause, as provided by Section 54-2608, Idaho Code, shall be considered as unfit and unqualified to receive a new plumbing contractor's license so long as such cause for revocation is continuing, and of such a nature that correction can be made by the applicant. (11-14-85)

04. Reviving an Expired License. Any applicant for a plumbing contractor's license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-2617, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violated any of the laws, rules and/or regulations applicable to plumbing contractors, and such violation is continuing, and of such a nature that corrections can be made by the applicant. (11-14-85)

05. Effective Dates. The effective dates of the compliance bond referred to in IDAPA 07.02.05.013.01 shall coincide with the effective dates of the contractor's license~~*, January 1st - December 31st*~~. Proof of renewal of the compliance bond must be on file with the Department before the contractor can renew or revive his license. ~~*(8-25-88)*~~(1-1-05)T

06. Plumbing Contractor's Responsibility. It shall be the responsibility of the plumbing contractor to ensure that all his employees working at the plumbing trade are licensed as provided by Idaho Code and these rules. (8-25-88)

(BREAK IN CONTINUITY OF SECTIONS)

016. CERTIFICATES OF COMPETENCY – ISSUANCE, RENEWAL, ~~/~~EXPIRATION, REVIVAL - FEES.
~~*Journeyman plumber and plumbing contractor licenses must be renewed each year before the last day of December.*~~

~~*Failure to renew the license will cause it to expire. It may be revived within one year by payment of the initial fee for said license. The fees for renewal and revival shall be as prescribed in Section 54-2616, Idaho Code.* *(8-25-88)*~~

01. **Issuance**. Certificates of competency shall be issued in such a manner as to create a renewal date that coincides with the birthdate of the individual to whom the certificate is issued and allows for renewals every three years. (1-1-05)T

a. Certificates of competency shall be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1) but whose birthday will not occur until March of year two (2) shall be issued a certificate of competency renewable on the anniversary of the applicant's birthdate. (1-1-05)T

b. The fee for issuance of certificates of competency shall be prorated based on the number of months for which it is issued. (1-1-05)T

02. **Renewal**. Certificates of competency shall be renewed in such a manner as will achieve a staggered system of certificate renewal using the birthdate of the individual to whom the certificate is issued as the expiration date. (1-1-05)T

a. Certificates of competency shall be renewed for a period of no less than one (1) year and no more than three years. (1-1-05)T

b. The fee for renewal of certificates of competency shall be prorated based on the number of months for which it is issued. (1-1-05)T

03. **Expiration - Revival**. (1-1-05)T

a. Certificates that are not timely renewed will expire. (1-1-05)T

b. A certificate that has expired may be revived within twelve months of its expiration by submitting a completed application and paying the same fee as for an initial certificate and meeting all other certification requirements. (1-1-05)T

c. Revived certificates shall be issued in such a manner as to create a renewal date that coincides with the birthdate of the applicant to achieve a staggered system of renewal. (1-1-05)T

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0403

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2606, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change clarifies the order in which four years of apprenticeship training must be taken and the number of hours required in each school year.

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 Section 54-2606, Idaho Code authorizes the change in administrative rule; and the changes were discussed at meetings of the Idaho Plumbing Board, which are open to the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-0403

011. APPRENTICE REGISTRATION.
The minimum age for any apprentice shall be sixteen (16) years. All apprentices shall be registered with the ~~*department*~~ division. The registration fee shall be as prescribed by Section 54-2614, Idaho Code. No examination is required. In order to maintain registration properly, an individual must be working at the trade under the constant on-

the-job supervision of a journeyman and in the employ of a contractor. ~~*He*~~ The apprentice must also be enrolled and active in an approved related training class for a total of four (4) years. Unless prior approval has been granted by the plumbing bureau, the apprentice must complete the required course work sequentially: year one (1) must be completed prior to beginning year two (2); year two (2) must be completed prior to beginning year three (3); and year three (3) must be completed prior to beginning year four (4). A minimum of one hundred forty-four (144) hours of classroom and/or other board approved instruction time per school year is required. A grade average of seventy percent (70%) must be maintained in these courses. Upon completion of apprenticeship training, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to his application for a journeyman license. In order to maintain registration, the apprentice shall renew his registration each year before December 31. The renewal fee shall be as prescribed by Section 54-2614, Idaho Code. ~~*(8-25-88)*~~(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.07 - RULES GOVERNING CIVIL PENALTIES

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

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2606(3)(e) and 54-2607, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule establishes civil penalties to assist in the enforcement of the Uniform Plumbing Code and plumbing related statutes. The new rule also establishes the process by which appeals from the imposition of civil penalties may be heard.

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

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.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Section 54-2606(3)(e), Idaho Code authorizes the establishment of the administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0207-0401

IDAPA 07
TITLE 02
CHAPTER 07

07.02.07 - RULES GOVERNING CIVIL PENALTIES

000. LEGAL AUTHORITY.
The Idaho Plumbing Board is authorized under Section 54-2606(3)(e), Idaho Code, to establish by administrative rule the civil penalty to be paid for citations issued. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.02.07, "Rules Governing Civil Penalties," Division of Building Safety. ( )

02. Scope. These rules establish the criteria and amount of civil penalties to be levied for violations of Title 54, Chapter 26, Idaho Code and IDAPA 07.02.07, "Rules Governing Civil Penalties," Division of Building Safety. ( )

002. WRITTEN INTERPRETATIONS.
This agency has no written interpretations of this chapter. ( )

003. ADMINISTRATIVE APPEALS.
Upon notice of a civil penalty, the notified party shall within ten (10) days comply with the penalty or file a written request for a hearing for appeal with the Idaho Plumbing Board. Bond in the amount of the penalty shall accompany the request for hearing. ( )

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into this rule. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Division of Building Safety, Plumbing Bureau is in Meridian, Idaho. The office is located at 1090 E. Watertower Street, Meridian, Idaho and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Division of Building Safety, 1090 E. Watertower Street, Meridian, Idaho 83642. ( )

006. -- 010. (RESERVED).

011. CIVIL PENALTIES.
The following acts shall subject the violator to penalties based on the following schedule. ( )

01. Plumbing Contractor. Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho state certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. ( )

02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, any person performing plumbing as defined in Section 54-2603, Idaho Code without an appropriate certificate of competency or registration shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. ( )

03. Performance Outside Scope of Certificate. Any specialty contractor or specialty journeyman performing plumbing installations, alterations or maintenance outside the scope of the specialty certificate of competency shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a

civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. ( )

04. Fees, Permits and Inspections. Any person failing to pay applicable fees, or properly post a plumbing permit, or to request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations and repairs shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand ($1,000) for each offense thereafter. ( )

05. Corrections. Any person who fails to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. ( )

06. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code or IDAPA 07.02, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. ( )

07. Judicial Review. Any party aggrieved by the final action of the Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. ( )

008. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.07 - RULES GOVERNING THE USE OF THE INTERNATIONAL ENERGY CONSERVATION CODE

DOCKET NO. 07-0307-0401 (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 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 39-4107(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. The original text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, page 31. This chapter is repealed in its entirety.

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

DATED this 25th day of August, 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 07

RULES GOVERNING THE USE OF THE INTERNATIONAL ENERGY CONSERVATION CODE

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 04-8, August 4, 2004, page 31.

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

07.03.08 - RULES GOVERNING COMMERCIAL COACHES

DOCKET NO. 07-0308-0401

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 39-4113(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. The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 32 and 33.

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

In accordance with Section 39-4113(2), Idaho Code the hourly rate charged to perform "systems" plan reviews for commercial coaches will be updated to $36 per hour; prior fee was $20 per hour. The rule is being updated to accurately reflect the current language in IDAPA 07.03.01, "Rules of Building Safety -- General," Section 015.

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

DATED this 25th day of August, 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 08

RULES GOVERNING COMMERCIAL COACHES

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 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 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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2005.

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 44-2102(4), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 temporary and proposed rule is necessary to comply with federal mandate 42 U.S.C. 5422(c)(12) as referenced in this year's House Bill 526 and pursuant to Section 44-2102(4), Idaho Code. The rule establishes a dispute resolution program to resolve disputes between manufacturers, retailers and installers of manufactured homes.

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

The temporary rule is necessary to comply with federal mandate 42 U.S.C. 5422(c)(12) as referenced in this year's House Bill 526 and pursuant to Section 44-2102(4), Idaho Code, which became effective July 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 and the fee is described herein: There are no fees or charges being imposed or increased in this rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the temporary and proposed rule is necessary to comply with federal mandate 42 U.S.C. 5422(c)(12) as referenced in this year's House Bill 526 and pursuant to Section 44-2102(4), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 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

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

000. LEGAL AUTHORITY.
The Idaho Manufactured Housing Advisory Board of the Division of Building Safety is authorized under Section 44-2102(4), Idaho Code, to promulgate rules concerning establishment of dispute resolution programs. (1-1-05)T

001. TITLE AND SCOPE.

01. **Title**. These rules shall be cited as IDAPA 07.03.09, "Rules Governing Manufactured Homes - Consumer Complaints - Dispute Resolution," Division of Building Safety. (1-1-05)T

02. **Scope**. These rules establish a program for the timely resolution of disputes between manufacturers, retailers and installers of manufactured homes in order to comply with Federal Housing and Urban Development regulations within 42 U.S.C. 5422(c)(12). (1-1-05)T

002. WRITTEN INTERPRETATIONS.
There are no written statements which pertain to the interpretation of these rules. (1-1-05)T

003. ADMINISTRATIVE APPEALS.
Appeals from decisions of the administrator as provided for herein shall be governed by the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and the contested case provisions of the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01. (1-1-05)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into these rules. (1-1-05)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Division of Building Safety, Building Bureau is located at 1090 E. Watertower Street, Meridian, Idaho. The office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Division of Building Safety, 1090 E. Watertower Street, Meridian, Idaho 83642. The office telephone number is (208) 334-3896 and the facsimile number is (208) 855-9399. (1-1-05)T

006. PUBLIC RECORDS ACT COMPLIANCE.
These rules were promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. These rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (1-1-05)T

007. -- 009. (RESERVED).

010. DEFINITIONS.
There are no definitions in this chapter. (1-1-05)T

011. ABBREVIATIONS.
There are no abbreviations in this chapter. (1-1-05)T

012 COMPLAINTS.

01. **Initial Inquiry**. Inquiries concerning complaints may be initiated by the consumer, and directed to the Division of Building Safety, either verbally or in writing. (1-1-05)T

02. **Statute of Limitations**. Complaints must be reported within one (1) year following the date of initial home installation. Complaints reported more than one (1) year following the date of initial home installation are not eligible for this dispute resolution process. (1-1-05)T

03. **Procedure**. The division may discuss the nature of the complaint with the consumer, seek additional information or clarification, and provide the consumer with information regarding the complaint procedures. (1-1-05)T

04. **Complaint Form**. The division will provide the consumer with a consumer complaint form. This form must be completed and returned to the division within thirty (30) days. (1-1-05)T

013. INVESTIGATION.

01. **Site Inspection**. The completed consumer complaint form received by the division is reviewed and, based either on the nature of the complaint (serious defect or imminent safety hazard) or upon request of the consumer, manufacturer, installer, or dealer, a site inspection is scheduled. (1-1-05)T

02. **Inspectors**. The site inspection may have only the division inspector and consumer present, at the consumer's request, or, if there is a dispute between the manufacturer, installer, or dealer, the inspection will be coordinated to include all involved parties. (1-1-05)T

03. **Costs**. (1-1-05)T

a. A site inspection made upon a consumer's request that involves issues concerning a defect as defined by HUD is conducted at no cost to the consumer. (1-1-05)T

b. A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or dealer if a site inspection is made upon a request by the manufacturer, installer, or dealer, and does not involve a serious defect or imminent safety hazard. (1-1-05)T

04. **Inspection Report**. Following a site inspection, the inspector will prepare a final report and include copies of any photographs taken. (1-1-05)T

05. **Complaint Determination**. Based on the complaint investigation, a determination is made as to the nature of the complaint and if follow-up is warranted by the division for action pursuant to HUD guidelines. (1-1-05)T

014. ACTION.

Based on the determination resulting from the complaint investigation, a notification letter and copies of the completed consumer complaint form and investigation findings may be provided to all involved parties and to HUD as required. (1-1-05)T

01. **Division Action**. If the nature of the complaint requires division action, notification and follow-up are completed according to HUD guidelines. (1-1-05)T

02. **License File**. If the nature of the complaint pertains to dealer contractual issues or installation problems, a copy of the complaint is given to the manufactured housing section of the division to be consolidated with the appropriate license files. (1-1-05)T

03. **Correction or Repair**. A division building inspector shall issue a report concerning correction or repair of defects that are a matter of dispute between the homeowner, dealer, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair. (1-1-05)T

015. DECISIONS - APPEALS - INFORMAL DISPOSITION.

01. **Decisions**. The division administrator will review the inspector's report and enter a decision setting forth the required corrective action and identifying the party to be responsible for such action. The division administrator may initiate a contested case proceeding if the administrator, in his sole discretion, determines that such a proceeding or further investigation would be of assistance in reaching a decision. The decision shall direct the responsible party to complete the required corrective action within specified timelines. In reaching a decision with respect to appropriate timelines in which to complete corrective action, the administrator shall consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties. (1-1-05)T

02. **Appeals**. Decisions of the administrator shall be final orders for purposes of appeal. (1-1-05)T

03. **Informal Disposition - Arbitration - Mediation**. Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged. (1-1-05)T

016. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.10 - RULES GOVERNING USE OF THE INTERNATIONAL RESIDENTIAL CODE

DOCKET NO. 07-0310-0401 (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 Section 39-4107(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. The original text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, page 34. This chapter is repealed in its entirety.

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

DATED this 25th day of August, 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 10

RULES GOVERNING USE OF THE INTERNATIONAL RESIDENTIAL CODE

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 04-8, August 4, 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 07 - DIVISION OF BUILDING SAFETY

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

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

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 44-2104(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule will make necessary housekeeping changes to existing manufactured home industry licensing rules and increases license fees by approximately 76% for the manufactured housing industry. Current license fees are inadequate to sustain the program's operation.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted with the entire manufactured housing industry, but the Manufactured Housing Board, who represents the industry, determined the need to raise fees or face zero funding within two to three years and lose the entire program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

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

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

000. LEGAL AUTHORITY.
In accordance with Section 44-2102, Idaho Code, the ~~*director*~~ administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. ~~*(5-25-94)*~~( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," Division of Building Safety, IDAPA 07.03.11. ( )

02. Scope. These rules apply to persons engaged in the business of manufacturing, selling, installing or servicing manufactured or mobile homes for purposes of human habitation (living and sleeping) in the state of Idaho. ~~*(5-25-94)*~~( )

002. WRITTEN INTERPRETATIONS.
The Division may from time to time provide legal opinions regarding these rules. To the extent not privileged, these documents will be made available for inspection at the Division's main office, ~~*277 North 6th Street*~~1090 E. Watertower St., ~~*Boise*~~ Meridian, Idaho 83642. ~~*(5-22-94)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

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

0~~*6*~~1. ~~*Director*~~Administrator. The ~~*director*~~ administrator of the Division of Building Safety of the state of Idaho. ~~*(5-25-94)*~~( )

0~~*1*~~2. Board. The Manufactured Home Advisory Board. The composition and duties of the Advisory Board are set forth at Section 44-2104, Idaho Code. (5-25-94)

0~~*2*~~3. Bond. The performance bond required by Section 44-2103, Idaho Code. (5-25-94)

0~~*3*~~4. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home dealer ~~*or broker*~~ is conducted simultaneously with and physically separated from his principal place of business. There shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the dealer~~*or broker*~~. ~~*(5-25-94)*~~( )

0~~*4*~~5. Business. Occupation, profession, or trade. (5-25-94)

0~~*5*~~6. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)

a. Is misleading or inaccurate in any material particular; (5-25-94)

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home dealer, ~~*broker,*~~ salesman, or service/installation company. ~~*(5-25-94)*~~( )

07. Division. The Division of Building Safety for the state of Idaho. (5-25-94)

08. **Installer**. A person who owns a business which installs a manufactured/mobile home at the site where it is to be used for occupancy. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home dealer who does not install manufactured/mobile homes. A dealer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. ~~(5-25-94)~~(____)

09. **Installation**. The term includes "setup" and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)

10. **Manufactured Home**. A structure constructed according to HUD manufactured home construction and safety standards, transportable in one (1) or more sections, which: ~~(5-25-94)~~(____)

a. In the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length; or (5-25-94)

b. When erected on site, is three hundred twenty (320) or more square feet in size; and (5-25-94)

c. Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and (5-25-94)

d. Includes the plumbing, heating, air conditioning, and electrical systems contained therein; (5-25-94)

e. Except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 USC 5401. (5-25-94)

~~***11.*** ***Manufactured Home Broker****. Except as otherwise provided in IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Licensing":* ***(5-25-94)***~~

~~***a.*** *Any person engaged in the business of selling or exchanging used units only; or* ***(5-25-94)***~~

~~***b.*** *Any person who buys, sells, lists or exchanges three (3) or more used units in any one (1) calendar year.* ***(5-25-94)***~~

1~~2~~1. **Manufactured Home Dealer**. Except as otherwise provided in IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing": ~~(5-25-94)~~(____)

a. Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)

b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)

1~~3~~2. **Manufactured/Mobile Home Salesman**. Except as otherwise provided in IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing": Any person employed by a manufactured/mobile home dealer ~~*or broker*~~ for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of units. ~~(5-25-94)~~(____)

1~~4~~3. **Manufactured/Mobile Home Service Company**. Any person who owns or is the responsible managing employee of a business which has grossed more than two thousand five hundred dollars ($2,500) in any one (1) year from the service of manufactured or mobile homes. The term does not include a manufactured/mobile home dealer or owner. The term also does not include licensed electrical or plumbing contractors, carpet and vinyl installers, painting or concrete contractors, tape and texture installers, cabinet installers, public utilities, or the employees of any of the occupations listed in this sentence. Finally, the term does not include manufactured/mobile home installers. (5-25-94)

1~~5~~4. **Manufacturer**. A manufacturing facility which has been certified by the U.S. Department of Housing and Urban Development (HUD) to construct prefabricated manufactured homes in accordance with the Manufactured Housing Construction Safety Standards Act of 1974. (5-25-94)

1~~6~~5. **Mobile Home**. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code). (5-25-94)

1~~7~~6. **Person**. A natural person, corporation, partnership, trust, society, club, association, or other organization. (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)

a. The business of the manufactured/mobile home dealer~~/*broker*~~ is lawfully conducted; ~~*(5-25-94)*~~(____)

b. The office or offices of the dealer~~/*broker*~~ is or are located; ~~*(5-25-94)*~~(____)

c. The public may contact the dealer~~/*broker*~~, or salesman; ~~*(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)

e. The greatest portion of the ~~*dealer/broker's*~~ dealer's business is conducted. The books and records of a dealer~~/*broker*~~ must be kept and maintained at the ~~*dealer/broker's*~~ dealer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there shall be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign shall provide the business name of the dealer~~*or broker*~~. ~~*(5-25-94)*~~(____)

1~~9~~8. **Responsible Managing Employee**. The person designated by the employer to supervise other employees, either personally or through others. (5-25-94)

~~20~~19. **Service**. Service includes, but is not limited to, the installation or repair of awnings, roofing, skirting, siding, remodeling, material alterations, attached carports or decks, on or in manufactured/mobile homes. (5-25-94)

2~~1~~0. **Unit**. A mobile or manufactured home. (5-25-94)

2~~2~~1. **Used Manufactured Home or Mobile Home**. A manufactured home or mobile home, respectively, which has been: (5-25-94)

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. (5-25-94)

005. -- 011. (RESERVED).

012. LICENSE REQUIRED.
It shall be unlawful to engage in business as a manufacturer, manufactured/mobile home dealer, ~~*manufactured/mobile home broker,*~~ manufactured/mobile home salesman, responsible managing employee, or manufactured/mobile home service company/installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing". No issued licenses are transferable. ~~*(5-25-94)*~~(____)

01. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. (5-25-94)

02. Designated License Holder. Any applicant for a license under IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," which is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," including but not limited to testing and education. ~~(5-25-94)~~( )

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. (5-25-94)

b. Any person designated under Subsection 012.02 shall represent one (1) applicant only, and shall immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder shall be considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. (5-25-94)

c. The applicant and the person designated under Subsection 012.02 agree by acceptance of the designation that the designated person shall act as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. (5-25-94)

03. Proof of License. Proof of the existence of any license issued pursuant to IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," shall be carried upon the person of the responsible managing employee or supervisor of any installation or any person who is personally involved with the service of any manufactured/mobile home at all times during the performance of the service or installation work. Such proof shall be furnished upon demand of any person. Moreover, any license issued to a manufactured/mobile home dealer~~, *broker*~~, responsible managing employee, or salesman must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office shall also be posted in a conspicuous place at the location licensed. ~~(5-25-94)~~( )

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers shall not be required to obtain a license under IDAPA 07.03.11, "Rules Governing Manufactured/ Mobile Home Industry Licensing," in order to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. ~~(5-25-94)~~( )

05. License for Manufacturers. In order to engage in business in the state of Idaho or to be entitled to any other license or permit required by IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," each manufacturer must be licensed by the Division. ~~(5-25-94)~~( )

06. License for Branch Office of Manufactured/Mobile Home Dealer~~*or Broker*~~. ~~(5-25-94)~~( )

a. The Division shall require as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home dealer ~~*or broker*~~ maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office. ~~(5-25-94)~~( )

b. To open a branch office, a dealer ~~*or broker*~~ must: obtain a license from the Division to operate the branch office; and provide for direct supervision of the branch office, either by himself or by employing a branch office manager. ~~(5-25-94)~~( )

c. If the branch office is closed, the dealer ~~*or broker*~~ shall immediately deliver the license to the Division. ~~(5-25-94)~~( )

07. License to Engage in Business as Manufactured/Mobile Home Dealer~~ or Broker~~, Manufacturer, Service Company, or Installer; Application; Bond; Issuance, Expiration, and Renewal. ~~(5-25-94)~~(____)

a. Applications for a manufacturer's, ~~broker's,~~ dealer's, service company or installer's license must be filed upon forms supplied by the Division, and the applicant shall furnish: ~~(5-25-94)~~(____)

i. Any proof the Division may deem necessary that the applicant is a manufacturer~~, broker~~, dealer, service company or installer; ~~(5-25-94)~~(____)

ii. Any proof the Division may require that the applicant has a principal place of business; (5-25-94)

iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought; (5-25-94)

iv. In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned; (5-25-94)

v. A reasonable fee and proof of bond fixed by rule; and (5-25-94)

vi. In the case of a ~~broker,~~ dealer, service company, or installer, proof of passing the examination required by IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing". ~~(5-25-94)~~(____)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. If any installer or service company's working relationship with his employer is terminated, the employer shall immediately deliver the license of the terminated installer or service company to the Division. (5-25-94)

08. License for Manufactured/Mobile Home Salesman. (5-25-94)

a. A person shall not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division shall require: (1) an application, signed by the applicant and verified by his employer, stating that he desires to act as a salesman and providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.08 shall not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed dealer~~ or broker~~. ~~(5-25-94)~~(____)

e. If a salesman ceases to be employed by a licensed dealer~~ or broker~~, his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed dealer~~ or broker~~. If the salesman's working relationship with his employer is

terminated, the employer shall immediately deliver his license to the Division. ~~*(5-25-94)*~~(____)

09. License for Responsible Managing Employee. (5-25-94)

a. A person shall not act as a responsible managing employee for an installer without first having been issued a license by the Division. Before issuing such a license the Division shall require: (5-25-94)

i. An application, signed by the applicant and verified by his employer, stating that he desires to act as a responsible managing employee and providing his residential address and the name and address of his employer; (5-25-94)

ii. A statement as to whether any previous application of the applicant has been denied or license revoked; and (5-25-94)

iii. Payment of the license fee established by rule; and (5-25-94)

iv. Any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.09 shall not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed service company or installer. (5-25-94)

e. If a responsible managing employee ceases to be employed by an installer, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed installer. (5-25-94)

f. If the responsible managing employee's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (5-25-94)

013. THE DIVISION'S MAILING ADDRESS.
Any correspondence or notices required by IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," or Title 44, Chapters 21 or 22, Idaho Code, shall be addressed to the ~~*Building Division,*~~ Division of Building Safety, ~~*Statehouse Mail*~~ 1090 E. Watertower St., ~~*Boise*~~ Meridian, Idaho ~~*83720*~~83642. ~~*(5-25-94)*~~(____)

014. PROOF OF CONTINUING EDUCATION REQUIRED.
Effective January 1, 1995, and except as otherwise provided in Section 07.03.11.015, the Division shall not: (5-25-94)

01. Satisfactory Proof for Application Submission. Allow an applicant for a license as a manufactured/mobile home dealer~~ *or broker*~~, or service company or installer to submit an application for the license until he submits proof satisfactory to the Division that he has completed the following number of hours of initial education: ~~*(5-25-94)*~~(____)

a. Installers and dealers (who are also installers): eight (8) hours. (5-25-94)

b. Dealers (who are not installers)~~*, brokers,*~~ and service company employees: four (4) hours. ~~*(5-25-94)*~~(____)

c. The course of initial education will include information relating to the provisions of IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. ~~*(5-25-94)*~~(____)

02. Satisfactory Proof for License Renewal. Renew any license issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," until the licensee has submitted proof satisfactory to the Division that he has, during the one (1) year immediately preceding the renewal of the license, completed at least the following number of hours of continuing education: ~~(5-25-94)~~(____)

a. Installers, dealers who are also installers, and responsible managing employees: four (4) hours. (5-25-94)

b. Dealers who are not installers~~, *brokers,*~~ and service company employees: two (2) hours. ~~(5-25-94)~~(____)

03. Continuing Education Course. The course of continuing education shall include information relating to the following: (5-25-94)

a. Manufactured housing or mobile home parks which will enable a person to give better service to the members of the general public and tenants of manufactured/mobile home parks; (5-25-94)

b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; (5-25-94)

c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and (5-25-94)

d. IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. ~~(5-25-94)~~(____)

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. Effective January 1, 1995, the Division shall require a written examination of each applicant for a license, other than a license being renewed, as a manufactured/mobile home dealer~~/*broker*~~, service company or installer. The examination shall include, but may not be limited to, the following subjects: Title 44, Chapters 21 and 22, Idaho Code; IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," and IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations"; and the Manufactured Housing Construction Safety Standards Act of 1974. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within sixty (60) days of its expiration date. ~~(5-25-94)~~(____)

02. Approval of Examination and Grade. Examinations for all classifications under these rules shall be approved by the Division and the Manufactured Home Advisory Board. No license shall be issued unless the applicant receives a final grade of seventy percent (70%) or higher. (5-25-94)

03. Retesting. If an applicant for a license fails the written examination offered by the Division twice, he must wait at least thirty (30) days before retesting. (5-25-94)

016. DISCIPLINARY ACTION AGAINST LICENSEES.
The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," or reissue the license subject to reasonable conditions upon any of the following grounds: ~~(5-25-94)~~(____)

01. Violation of Rules. For any willful or repeated violation of IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code; ~~(5-25-94)~~(____)

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home dealer~~ *or broker*~~, failure of the applicant or licensee to have a principal place of business; ~~(5-25-94)~~(____)

03. Revocation of License. The revocation of the license of the employer of an installer, responsible managing employee, salesman, or service company is grounds for the revocation of the license of the installer, responsible managing employee, salesman, or service company employee. (5-25-94)

04. False Information. Material misstatement in the application or otherwise furnishing false information to the Division; (5-25-94)

05. Proof of Employment. Failure of a salesman or applicant for licensing as a salesman to establish by proof satisfactory to the Division that he is employed by a licensed dealer ~~*or broker*~~; ~~*(5-25-94)*~~(____)

06. Disclosing Contents of Examination. Obtaining or disclosing the contents of an examination given by the Division; (5-25-94)

07. Deceptive Practice. The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing"; ~~*(5-25-94)*~~(____)

08. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed dealer, service company, or installer, or the name under which he is doing business; (5-25-94)

09. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify his credit application; (5-25-94)

10. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest editions of the ~~*Uniform*~~ International Building Code, the National Electrical Code, the Uniform Plumbing Code, and the ~~*Uniform*~~ International Mechanical Code, then in effect; ~~*(5-25-94)*~~(____)

11. Installation Supervisor Required. Failure to have a licensed responsible managing employee personally supervise any installation of a manufactured/mobile home; (5-25-94)

12. Failure of Organizations to License its Employees. Failure of an organization to have its employees maintain any license as required by IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing"; ~~*(5-25-94)*~~(____)

13. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by an applicant or licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home, or accessory structure; (5-25-94)

14. Revocation or Denial of License. Revocation or denial of a license issued pursuant to IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," or an equivalent license by any other state or country; ~~*(5-25-94)*~~(____)

15. Failure to Maintain Any Required License. Failure of the licensee to maintain any other license required by any city or county of this state; (5-25-94)

16. Failure to Respond to Notice. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice; (5-25-94)

17. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division; (5-25-94)

18. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions

of Title 44, Chapters 21 or 22, Idaho Code; (5-25-94)

19. Conviction of Felony. Conviction or withheld judgment for a felony or a crime of moral turpitude in this state or any other state or country; (5-25-94)

20. Dealing with Stolen Manufactured or Mobile Homes. To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home; or (5-25-94)

21. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state; (5-25-94)

017. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.
Any proceeding to suspend, revoke, or not renew any license shall be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the Idaho Attorney General's Model Rules of Practice and Procedure, IDAPA 04.11.01.000, et seq. Any party aggrieved by an order of the ~~*Director*~~ administrator suspending, revoking, or not renewing a license shall be entitled to judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. ~~*(4-22-94)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

019. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged, and no application for licensing pursuant to this rule will be accepted by the Division unless it is accompanied by the appropriate fee: (5-25-94)

a. Manufactured/mobile home dealer's ~~*or broker's*~~ license: ~~*two*~~ four hundred ~~*fifty*~~ forty dollars ($~~*25*~~440). Dealers who are also installers will not have to pay an installer's license fee in order to hold both licenses. ~~*(5-25-94)*~~(____)

b. Manufacturer license: ~~*two*~~ four hundred ~~*fifty*~~ forty dollars ($~~*25*~~440); ~~*(5-25-94)*~~(____)

c. Manufactured/mobile home service company/installer: ~~*one*~~ two hundred twenty~~*-five*~~ dollars ($~~*125*~~220); ~~*(5-25-94)*~~(____)

d. Manufactured/mobile home salesman's license: ~~*twenty*~~ forty-five dollars ($~~*2*~~45). ~~*(5-25-94)*~~(____)

e. Branch office/responsible managing employee: ~~*no fee*~~ forty-five dollars ($45). ~~*(5-25-94)*~~(____)

02. Performance Bonding Requirements. No application for licensing pursuant to IDAPA 07.03.11, Rules Governing Manufactured/Mobile Home Industry Licensing, shall be accepted unless it is accompanied by evidence of the following performance bond: ~~*(5-25-94)*~~(____)

a. Manufacturer: twenty thousand dollar ($20,000) bond; (5-25-94)

b. Manufactured/mobile home dealer: twenty thousand dollar ($20,000) bond; (5-25-94)

~~***c.*** *Manufactured/mobile home broker: twenty thousand dollar ($20,000) bond;* *(5-25-94)*~~

~~***d.***~~**c.** Manufactured/mobile home service company/installer: five thousand dollar ($5,000) bond. Dealers who are also installers will not be required to post an installer's bond in order to hold both licenses. (5-25-94)

~~e~~d. Branch office/responsible managing employee. No bond. (5-25-94)

03. Money Deposit in Lieu of Performance Bond. A money deposit shall be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and IDAPA 07.03.11.019.02, under the following circumstances: (7-1-96)

a. Any such money deposit shall be in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; (7-1-96)

b. Any such money deposit shall be deposited in a time certificate of deposit which provides on its face that the principal amount of such certificate of deposit shall be payable to the Division upon presentment and surrender of the instrument; (7-1-96)

c. Any such time certificate of deposit shall have a maturity date of one (1) year from the effective date of licensure and shall have an automatic renewal provision for subsequent years; (7-1-96)

d. Any such time certificate of deposit shall be provided to the Division at the time of application for licensure and shall be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; (7-1-96)

e. Any such time certificate of deposit shall be returned to an unsuccessful applicant for licensure; (7-1-96)

f. The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, shall be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and (7-1-96)

g. Any interest income earned by reason of the principal amount of the time certificate of deposit shall be the property of the licensee. (7-1-96)

020. LICENSING COMPLAINTS.
Persons who wish to submit comments to the Division for its consideration regarding the fitness to hold a license of anyone currently licensed or applying for a license under IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," must do so in writing. To be considered, any such writing must be signed, dated, provide the name of the license holder or applicant, provide the specific details giving rise to the comments, and contain a valid and current address and telephone number for verification purposes. ~~(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 - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 44-2504(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

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 mobile home rehabilitation program has been non-funded since its inception in 1998 and this rule change will allow the program to be self-funded.

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

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.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted with the entire manufactured housing industry, but the Manufactured Housing Board who represents the industry determined the need to implement fees as the program has been funded by manufactured housing industry licensing fees since its inception in 1998 and now must be self-supporting.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0313-0401

012. REHABILITATION FORM AND CHECKLIST -- COMPLIANCE CERTIFICATE.

01. Rehabilitation Checklist. The rehabilitation form will be completed and signed by an authorized representative of an Idaho licensed manufactured home service company or installer or dealer holding an installer's license. Electrical, gas, water and sewer inspections and any necessary repairs must be performed by a person or company properly licensed and authorized to perform the work under Idaho law, with the person or company performing the inspections and repairs to be noted on the rehabilitation form. The term "Inspections" in the context of this section is intended to mean testing of the various electrical, gas, water and sewer systems. A properly completed rehabilitation form shall be presented to the Division of Building Safety before a certificate of compliance may be issued. (7-1-99)

02. **Processing Fee**. A fee of fifty dollars ($50) shall be paid by the homeowner for the processing of a rehabilitation form. ( )

0~~2~~3. Rehabilitation Checklist and Compliance Certification Form. The following is the official rehabilitation checklist and compliance certificate: (7-1-99)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.04.02 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 07-0402-0401 (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 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 39-8605, 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 original text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 35 through 37.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bob Brewton, Program Manager, 208-332-8967.

DATED this 25th day of August, 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 04, CHAPTER 01

SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

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 35 through 37.

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 - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5004(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes are necessary to address questions that have arisen on the part of industry and others in the process of implementing HVAC licensing requirements. The changes clarify the definition of a specialty contractor, allow a certificate of competency to be issued to an entity, address additional qualifications for HVAC contractors and designate a supervising journeyman.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees or charges imposed or increased in this proposed rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Heating, Ventilation and Air Conditioning Board and industry representatives traveled throughout the state addressing the issues and concerns of those in the HVAC industry. These rule changes are in response to those issues and concerns.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-0402

010. DEFINITIONS.

01. Administrator. The administrator of the Idaho Division of Building Safety. (3-16-04)

02. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

03. Bureau. The Idaho Division of Building Safety, Heating, Ventilation, and Air Conditioning Bureau. (3-16-04)

04. Division. The Idaho Division of Building Safety. (3-16-04)

05. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules except that the term "heating, ventilation and air conditioning specialty contractor" shall include any natural person or any business, trade, partnership, corporation, firm or association engaged in a specific aspect of the heating, ventilation and air conditioning trade such as gas piping, gas appliances and installation, or decorative gas-fired appliances. ~~(3-16-04)~~( )

06. Rules. IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety". (3-16-04)

011. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION, - REVIVAL AND CALCULATION OF DATES.

01. Issuance. Certificates of competency shall be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. (7-1-04)T

a. Certificates of competency shall be issued for a period of no less than one (1) year and no more than (3) three years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1), but whose birthday will not occur until March of year two (2) shall be issued a certificate of competency renewable on the anniversary of the applicant's birth month. (7-1-04)T

b. The fee for issuance of certificates of competency shall be prorated based on the number of months for which the certificate is issued. (7-1-04)T

02. Renewal. Certificates of competency shall be renewed in such a manner as to create a staggered system of certificate renewals using the birth month of the individual to whom the certificate is issued as the expiration date. (7-1-04)T

a. Certificates of competency shall be renewed for a period of no less than one (1) year and no more than three (3) years. (7-1-04)T

b. The fee for renewal of certificates of competency shall be prorated based on the number of months for which the certificate is issued. (7-1-04)T

03. Expiration-Revival. (7-1-04)T

a. Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (7-1-04)T

b. Revived certificates shall be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (7-1-04)T

04. Calculation of Dates. When the division issues certificates of competency to entities other than natural persons, the date that the certificate is issued shall be used in lieu of a birth date for purposes of calculating certification, renewal and revival dates. ( )

012. -- 019. (RESERVED).

020. HVAC CONTRACTOR AND HVAC JOURNEYMAN APPLICATIONS FOR EXAMINATION AND CERTIFICATES OF COMPETENCY, AND REGISTRATION OF APPRENTICES.
Application ~~*forms*~~ for HVAC contractor, HVAC specialty contractor, and HVAC journeyman examinations or certificates of competency and for HVAC apprentice registrations, shall be ~~*printed and made available*~~ submitted on forms provided by the administrator. ~~*(3-16-04)*~~(____)

01. Application Forms. All applications for certificates and all applications for registration ~~*shall be submitted on forms provided by the administrator and*~~ shall be properly completed, giving all ~~*pertinent*~~ required information, and all signatures shall be notarized. ~~*(3-16-04)*~~(____)

02. Application, Renewal, and Registration Fees. Fees for applications for examination, certificates of competency, renewal of certificates, and fees for apprentice registration shall be as set forth in Section 54-5012, Idaho Code. (3-16-04)

03. Application Submission. All applications shall be submitted to the Board and shall be approved by an administrator before any examination may be taken and before any certificate of competency is issued. (3-16-04)

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY.

01. Requirements for HVAC Contractor. (3-16-04)

a. Bond. Applicants shall provide a ~~*performance*~~ surety bond in the amount of two thousand dollars ($2,000). ~~*(3-16-04)*~~(____)

b. Qualification. Applicants shall provide proof, satisfactory to the board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

c. Examination. Applicants for certification as HVAC contractors must successfully complete the examination designated by the board. (3-16-04)

02. Alternate Requirements for HVAC Contractor. (Applies only until April 1, 2005). (3-16-04)

a. Bond. Applicants shall provide a ~~*performance*~~ surety bond in the amount of two thousand dollars ($2,000). ~~*(3-16-04)*~~(____)

b. Qualification. Proof, satisfactory to the board, of having engaged in the business of HVAC contracting prior to July 1, 2004. Forms of proof include, but are not limited to: (3-16-04)

i. Copies of business licenses or registrations; (3-16-04)

ii. Tax returns; (3-16-04)

iii. Business advertisements; (3-16-04)

iv. Client affidavits; or (3-16-04)

v. Descriptions of work done to date. (3-16-04)

c. Examination. Copies of the HVAC statute and rules, along with an examination regarding the statute and rules will be included in each application package. The examination must be completed using the statute and rules and a written verification of completion of the examination must be submitted at the same time as the completed application for a certificate of competency. (3-16-04)

03. **Additional Requirements**. Any person, firm, partnership, company, association or corporation that applies for an HVAC contractor certificate of competency shall be required to designate a supervising HVAC journeyman on the application. ( )

a. Supervising journeyman. The designated supervising journeyman must be a full time employee who holds an active HVAC journeyman certificate of competency, issued by the division, that is active and in good standing. The designated supervising journeyman must be available at all times during working hours to act in that capacity. ( )

b. Individual contractor may act as designated supervising journeyman. An individual HVAC contractor may act as the designated supervising journeyman so long as he meets the criteria set forth in Subsection 021.03.a. ( )

c. Termination of working relationship with designated supervising journeyman. In the event that the designated supervising journeyman's working relationship with the HVAC contractor is terminated for any reason, the contractor must designate a qualified replacement supervising journeyman within ninety (90) days of the termination or the contractor certificate shall be void. If the contractor certificate is held by an individual who is also acting as the designated supervising journeyman, the contractor certificate shall be void at the end of ninety (90) days unless a qualified replacement supervising journeyman is designated. ( )

022. HVAC SPECIALTY CONTRACTOR CERTIFICATE OF COMPETENCY.

01. **Requirements for HVAC Specialty Contractor**. (3-16-04)

a. Bond. Applicants shall provide a ~~*performance*~~ surety bond in the amount of two thousand dollars ($2,000). ~~*(3-16-04)*~~( )

b. Qualification. Applicants shall provide proof, satisfactory to the board, of having legally acted as an HVAC specialty journeyman for a period of not less than twenty four (24) months. (3-16-04)

c. Examination. Applicants for certification as HVAC specialty contractors must successfully complete the examination designated by the board. (3-16-04)

02. **Alternative Requirements for HVAC Specialty Contractor**. (Applies only until April 1, 2005). (3-16-04)

a. Bond. Applicants shall provide a ~~*performance*~~ surety bond in the amount of two thousand dollars ($2,000). ~~*(3-16-04)*~~( )

b. Qualification. Proof, satisfactory to the board, of having engaged in the business of HVAC specialty contracting prior to July 1, 2004. Forms of proof include, but are not limited to: (3-16-04)

i. Copies of business licenses or registrations; (3-16-04)

ii. Tax returns; (3-16-04)

iii. Business advertisements; (3-16-04)

iv. Client affidavits; or (3-16-04)

v. Descriptions of work done to date. (3-16-04)

c. Examination. Copies of the HVAC statute and rules, along with an examination regarding the statute and rules will be included in each application package. The examination must be completed using the statute and rules and a written verification of completion of the examination must be submitted at the same time as the completed application for a certificate of competency. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

050. HVAC PERMITS.

01. Serial Number. Each permit shall bear a serial number. (3-16-04)

02. HVAC Contractors and HVAC Specialty Contractors. The Division shall furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits shall be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. Permits shall not be transferable. (3-16-04)

03. ~~*Home*~~Property Owners. Home owners ~~*or*~~ and contract purchaser of residential property, making HVAC installations on their own residences~~*, coming under the provisions of*~~ as authorized in Section 54-5002, Idaho Code, and maintenance workers who meet the criteria set forth in Section 54-5002(4), Idaho Code, shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. ~~*(3-16-04)*~~(____)

04. HVAC Contractors and HVAC Specialty Contractors. HVAC contractors and HVAC specialty contractors shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

05. Expiration of Permit. Every permit issued by the Division under the provisions of Section 54-5017, Idaho Code, shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of issuance of such permit, or if work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120) days. Before work that has been suspended or abandoned for a period of more than one hundred twenty (120) days since originally commenced, may be recommenced, a new permit must first be obtained, and the fee shall be one-half (1/2) the amount required for a new permit for such work; provided, no changes have been made, or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one (1) year. All HVAC fixtures shall be listed on the application for permit. (3-16-04)

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 18, 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 54-5004(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 proposed and temporary rule deletes IDAPA 07.07.01, Subsection 050.05 as that subsection of administrative rule not only repeats statute, but does so incorrectly. The administrative rule wrongly states every permit issued will expire if the work authorized by the permit is not commenced within one hundred twenty (120) days, and Idaho Code states the day limit will be ninety (90) days. The administrative rule also wrongly states every permit issued will expire if the work authorized is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120) days, and Idaho Code states the day limit will be one hundred eighty (180) days.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: IDAPA 07.07.01.050.05 currently conflicts with Section 54-5017(3), Idaho Code by incorrectly referencing permit expiration periods.

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: The temporary and proposed rulemaking does not impose or increase any fees or charges.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is necessary as the current administrative rule is in direct conflict with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-0403

050. HVAC PERMITS.

01. Serial Number. Each permit shall bear a serial number. (3-16-04)

02. HVAC Contractors and HVAC Specialty Contractors. The Division shall furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits shall be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. Permits shall not be transferable. (3-16-04)

03. Home Owners. Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

04. HVAC Contractors and HVAC Specialty Contractors. HVAC contractors and HVAC specialty contractors shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

~~***05. Expiration of Permit**. Every permit issued by the Division under the provisions of Section 54-5017, Idaho Code, shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of issuance of such permit, or if work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120) days. Before work that has been suspended or abandoned for a period of more than one hundred twenty (120) days since originally commenced, may be recommenced, a new permit must first be obtained, and the fee shall be one-half (1/2) the amount required for a new permit for such work; provided, no changes have been made, or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one (1) year. All HVAC fixtures shall be listed on the application for permit.*~~

~~*(3-16-04)*~~

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.01.01 - RULES OF THE STATE BOARD OF EDUCATION AND BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO - ADMINISTRATIVE PROCEDURES AND RECORDS

DOCKET NO. 08-0101-0401

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 33-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

In order to allow state board staff additional time to research the issue of waivers, the State Board of Education has withdrawn this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Karen Echeverria at 334-2270.

DATED this 12th day of August, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
Office of the State Board of Education
650 West State Street, Rm. 307
Boise, Idaho 83720
(208) 334-2270
fax: (208) 334-2632

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0403

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency intends to propose rules and desires public comment. The action is proposed rulemaking authorized pursuant to Sections 33-1501 through 33-1512 and 33-1006, Idaho Code.

HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

October 27, 2004, 4:00 p.m.
Idaho State Department of Education
LBJ Building - 2nd floor Conference Room
650 State St., Boise, ID 83720-0027

The meeting site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208) 332-6811.

METHOD OF PARTICIPATION: Persons wishing to participate in the proposed rulemaking process must do the following: Interested persons may submit written comments through October 27, 2004. Requests to give oral presentation during the October 27, 2004, public hearing must be submitted prior to October 27, 2004. The proposed rule will appear in the October Administrative Bulletin and the proposed rule and referenced document has been posted and routinely updated on the agency's website (www.sde.state.id.us/finance/transport).

DESCRIPTIVE SUMMARY: The following is nontechnical explanation of the substance and purpose of the proposed rulemaking and the principle issues involved:

Current administrative rules related to Idaho's pupil transportation support program became effective secondary to State Board of Education and legislative review on July 1, 2004. Changes in Standards for Idaho School Buses and Operations related to new school bus construction standards are anticipated. Changes in Standards for Idaho School Buses and Operations related to operations, driver qualifications, financial reporting and bus purchasing are anticipated in response to OPE reports 03-02 and 04-02, legislative inquiries, recent session law and legislation and State Board of Education requests.

The goal of the State Department of Education is to clarify standards language where appropriate and continue in its support of pupil transportation rules and procedures designed to promote safety, equity, accountability and efficiency.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. A public hearing was held on June 25, 2004, in conjunction with negotiated rulemaking (see June Administrative Bulletin). Eleven interested stakeholders attended.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning the proposed rule, or to obtain a copy of the preliminary draft of the text of the proposed rule or referenced document, contact Rodney D. McKnight, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6851 or fax request to (208) 334-3484.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 13th day of August, 2004.

Dr. Marilyn Howard, Superintendent of Public Instruction
State Department of Education
650 West State Street - P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6811 - (208) 332-6836 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0403

004. INCORPORATION BY REFERENCE.
The State Board of Education adopts and incorporates into its rules: (4-5-00)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved on in November 2003. (3-16-04)

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at http://www.idahoboardofed.org. (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on ~~*October 3*~~ August 13, 200~~*3*~~4. ~~*(7-1-04)*~~(____)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. The Idaho Driver Education Administrative Manual as approved on October 17, 1996. (5-3-03)

08. Document Availability. The Idaho Driver Education Administrative Manual is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

150. TRANSPORTATION.
Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as approved on ~~*October 3*~~ August 13, 200~~*3*~~4, as authorized in Section 33-1511, Idaho Code. ~~*(7-1-04)*~~(____)

151. -- 159. (RESERVED).

160. MAINTENANCE STANDARDS AND INSPECTIONS.

01. Safety. School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as approved on ~~*October 3*~~ August 13, 200~~*3*~~4, the school district will eliminate the deficiency before returning the vehicle to service. ~~*(7-1-04)*~~( )

02. Annual Inspection. After completion of the annual school bus inspection, and if the school bus is approved for operation, an annual inspection sticker, indicating the year and month of inspection, will be placed in the lower, right-hand corner of the right side front windshield. The date indicated on the inspection sticker shall correlate to State Department of Education's annual school bus inspection certification report signed by pupil transportation maintenance personnel and countersigned by the district superintendent. (Section 33-1506, Idaho Code) (7-1-02)

03. Sixty-Day Inspections. At intervals of not more than sixty (60) calendar days, excluding documented out-of-use periods in excess of thirty (30) days, the board of trustees shall cause inspection to be made of each school bus operating under the authority of the board. Except that, no bus with a documented out-of-use period in excess of sixty (60) days shall be returned to service without first completing a documented sixty (60) day inspection. Annual inspections are considered dual purpose and also meet the sixty (60) day inspection requirement. (Section 33-1506, Idaho Code) (7-1-04)

04. Documentation of Inspection. All inspections will be documented in writing. Annual inspections must be documented in writing on the form provided by the State Department of Education. (4-1-97)

05. Unsafe Vehicle. When a bus has been removed from service during a State Department of Education inspection due to an unsafe condition, the district will notify the State Department of Education on the appropriate form before the bus can be returned to service. When a bus has been found to have deficiencies that are not life-threatening, it will be repaired within thirty (30) days and the State Department of Education notified on the appropriate form. If the deficiencies cannot be repaired within thirty (30) days, the bus must be removed from service until the deficiencies have been corrected or an extension granted. (7-1-02)

06. Withdraw from Service Authority. Subsequent to any federal, national, or state advisory with good cause given therefor, the district shall, under the direction of the State Department of Education, withdraw from service any bus determined to be deficient in any prescribed school bus construction standard intended to safeguard life or minimize injury. No bus withdrawn from service under the provisions of this section shall be returned to service or used to transport students unless the district submits to the State Department of Education a certification of compliance specific to the school bus construction standard in question. (Section 33-1506, Idaho Code) (7-1-04)

161. -- 169. (RESERVED).

170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.
All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as approved on ~~*October 3*~~ August 13, 200~~*3*~~4. (Section 33-1508; 33-1509, Idaho Code) ~~*(7-1-04)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

190. PROGRAM OPERATIONS.
School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and ~~*commercial computerized routing and scheduling software*~~ district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations as approved on ~~*October 3*~~ August 13, 200~~*3*~~4. (Section 33-1006, Idaho Code) ~~*(7-1-04)*~~( )

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0405

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking is scheduled:

October 20, 2004
7:00 p.m. to 9:00 p.m.
Joe R. William Building
East Conference Room
700 W. State St., Boise, Idaho

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

According to Idaho Code Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for improving professional teacher standards. Periodic development, review, and revision of the current Idaho's teacher standards are necessary to ensure that the standards align with best practices in the teaching profession. To meet current best practices in the teaching profession, standards for reading teachers have been developed, and the Idaho core standards for the preparation of all K-12 teachers and the Idaho standards for the preparation of special education teachers, social studies teachers, and science teachers have been reviewed and revised.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Professional Standards Commission at its March 4-5, 2004 meeting approved the recommendation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Stefanic at (208) 332-6884 or Patricia Toney, (208) 332-6938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Dr. Michael P. Stefanic
Bureau Chief – Certification/Professional Standards
Administrator – Professional Standards Commission
Department of Education, Bureau of Certification/Professional Standards
650 W. State
Boise, Idaho 83720-0027
Phone: (208) 332-6884
Fax: (208) 334-2094

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0405

004. INCORPORATION BY REFERENCE.
The State Board of Education adopts and incorporates into its rules: (4-5-00)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved on in ~~*November*~~ June 200~~3~~4. ~~*(3-16-04)*~~( )

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at http://www.idahoboardofed.org. (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on October 3, 2003. (7-1-04)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. The Idaho Driver Education Administrative Manual as approved on October 17, 1996. (5-3-03)

08. Document Availability. The Idaho Driver Education Administrative Manual is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0406

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1701(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

October 18, 2004, 7:00 p.m.
Joe R. Williams Building, 1st Floor Conference Room
600 West State Street
Boise, Idaho

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In the past, Commercial Driving Schools and Public Schools were governed by the same rules. Last year, the Department and the Board rewrote the Standards for Driver Education and Training. At that time, the Commercial Driving Schools objected to the new manual. The manual was adopted for Public Schools only. These rules now set out the standards for Commercial Driving Schools. This docket also clarifies and incorrect citation found in these rules.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. A Steering Committee was formed and meetings were held on July 12, 2003, November 15, 2003, and April 29, 2004.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Echeverria at 334-2270.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 12th day of August, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720, Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0406

003. ADMINISTRATIVE APPEALS.
Unless otherwise provided for in these rules, administrative appeals are by written application to the State Board of Education pursuant to IDAPA 08.0~~2~~1.01, "Rules ~~*Governing Administration*~~ of the State Board of Education and Board of Regents of the University of Idaho – Administrative Procedures and Records," Section 0~~*01*~~50.
~~*(7-1-02)*~~( )

004. INCORPORATION BY REFERENCE.
The State Board of Education adopts and incorporates into its rules: (4-5-00)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved on in November 2003. (3-16-04)

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at http://www.idahoboardofed.org. (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on October 3, 2003. (7-1-04)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. The Idaho ~~*Driver Education Administrative Manual as approved on October 17, 1996*~~ Standards for Commercial Driving Schools as approved on August 12, 2004. ~~*(5-3-03)*~~( )

08. Document Availability. The Idaho ~~*Driver Education Administrative Manual*~~ Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. ~~*(5-3-03)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

230. DRIVER EDUCATION.

01. Commercial Schools. All driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the Idaho ~~*Driver Education Administrative Manual as approved on October 17, 1996*~~ Standards for Commercial Driving Schools as approved on August 12, 2004. ~~*(5-3-03)*~~( )

02. Public Schools. All driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0407

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 33-1701-33-1708 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2004 legislature repealed a section of Statute that was addressed in rule. Specific explanation is given to clarify in-car instruction and providing flexibility for required observation time. Content Standards and Benchmarks developed over a period of 4 years are identified for "approved driver education and training programs". A numbering system replaced bullets in one section for clarification. A clarification is given for what qualifies for reimbursement of expenses. A timeframe is given for when vehicle signs must be replaced. Idaho State Police recommended removal of a section that was not enforceable. Clarification was given for commercial schools contracting with public schools as to the public school rules that must be followed when instructing teen drivers for a school district.

The goal of the State Department of Education is to clarify standards language where appropriate and continue in its support of rules and procedures designed to promote safety, equity, accountability and efficiency.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the edits to the current rule are clarification of existing rule statements in the Idaho Standards for Public School Driver Education and Training, approved on November 22, 2002.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Elizabeth Weaver, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6854 or fax to (208) 334-3484.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of July, 2004.

Dr. Marilyn Howard
Superintendent of Public Instruction
State Department of Education
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6811
(208) 332-6836 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0407

004. INCORPORATION BY REFERENCE.
The State Board of Education adopts and incorporates into its rules: (4-5-00)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved on in November 2003. (3-16-04)

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at http://www.idahoboardofed.org. (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on October 3, 2003. (7-1-04)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on ~~*November 22, 2002*~~ August 13, 2004. ~~*(5-3-03)*~~( )

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. The Idaho Driver Education Administrative Manual as approved on October 17, 1996. (5-3-03)

08. Document Availability. The Idaho Driver Education Administrative Manual is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

230. DRIVER EDUCATION.

01. Commercial Schools. All driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the Idaho Driver Education Administrative Manual as approved on October 17, 1996. (5-3-03)

02. Public Schools. All driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho Standards for Public School Driver Education and Training as approved on ~~*November 22, 2002*~~ August 13, 2004. ~~*(5-3-03)*~~( )

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0408

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-119, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

October 20, 2004
7:00 p.m. to 9:00pm
Joe R. Williams Building
East Conference Room
700 W. State Street, Boise

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Public school districts, in addition to public schools, will be required to be accredited by the state. The four accreditation options currently in Board rule will be eliminated and all schools and districts will be expected to meet the same high standards of state accreditation.

Districts will be required to develop and implement district-wide strategic plans. Schools will be required to develop continuous school improvement plans. The district strategic plan and school improvement plans within that school district will align and focus on improving school and staff capacity to increase student achievement.

Districts and schools will be required to report progress on their strategic/improvement plans as well as the attainment of new accreditation standards.

FEE SUMMARY: No fee is being imposed or increased by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rule changes are the culmination of four years of committee review and development, field-testing, and feedback from education stakeholders including accreditation committee members, school superintendents and building administrators, school board members, parents, education organization representatives, State Department of Education staff, and State Board of Education staff.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Shannon Page, State Accreditation Coordinator, 332-6947.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Shannon Page, State Accreditation Coordinator
Idaho Department of Education
650 W. State Street, 2nd Floor
P.O. Box 83720, Boise, ID 83720-0027
(208) 332-6947 phone / (208) 334-2095 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0408

140. ACCREDITATION.
All public schools and districts in Idaho will be state accredited. State accreditation is voluntary for private and parochial schools. (Section 33- 119, Idaho Code) ~~*(4-1-97)*~~(____)

01. ~~***Methods of State Accreditation****. State accreditation will consist of using one (1) of the four (4) options listed below:*~~ **District Strategic Plan**. School districts will develop and implement a minimum three to five-year strategic plan focused on the improvement of student performance. The district strategic plan (DSP) will be monitored by a representative review team established by each district's administration and board of trustees, which will recommend revision of goals as necessary and provide regular reports on implementation of the plan to the district's trustees. ~~*(4-1-97)*~~(____)

~~***a.*** *Schools may use the Idaho Elementary/Secondary Accreditation Standards, dated October 17, 1996.* *(4-1-97)*~~

~~***b.*** *Schools may use the Northwest Accreditation Standards;* *(4-1-97)*~~

~~***c.*** *Schools may use the Idaho School Accreditation School Improvement Model;* *(4-1-97)*~~

~~***d.*** *Schools may submit an alternative model.* *(4-1-97)*~~

02. **Continuous School Improvement Plan**. Schools will develop continuous school improvement plans (CSIP) focused on the improvement of student performance. (____)

03. **Plan Alignment and Focus**. District strategic plans (DSP) and continuous school improvement plans (CSIP) will align and focus on improving school and staff capacity (structure/resource allocation/teacher skill sets) to increase student achievement. (____)

04. **Standards**. Districts and schools will meet state-approved accreditation standards as adopted by the State Board of Education. (____)

0~~2~~5. **Reporting**. Accreditation ~~*models or*~~ reports on DSP/CSIP and the attainment of standards will be submitted, as requested, to the ~~*Elementary/Secondary*~~ State Accreditation Committees, whose members are ~~*appointed*~~ approved by the State Board of Education~~.~~ and representative of ~~*E*~~each region of the state~~ *will be represented*~~. The Committees will review the ~~*models and/or*~~ reports and make recommendations to the State Board of Education for ~~*action*~~ accreditation status. ~~*Committee recommendations*~~ Accreditation status may be appealed to the State Board of Education. ~~*(4-1-97)*~~(____)

06. **Elements of Thoroughness**. The requirements for thoroughness referenced in Section 33-1612, Idaho Code will be met~~ *with all options*~~. ~~*(4-1-97)*~~(____)

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0409

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

According to Section 33-1258, Idaho Code, the Professional Standards Commission is responsible for making recommendations to the State Board as to the approval of teacher preparation programs. Idaho State Board Rule 08.02.02.100 states that the Idaho Standards for Initial Certification of Professional School Personnel is the vehicle by which teacher preparation programs are state-approved.

It has been standard practice that the total cost for sending a state team to conduct an on-site Idaho teacher preparation program review be covered by the Professional Standards Commission's operating budget. With the advent of out-of-state programs and out-of-state colleges/universities requesting consideration for offering teacher preparation programs in Idaho, the cost is becoming prohibitive and beyond the budget of the Professional Standards Commission.

The purpose of amending Section 100 (Official Vehicle for approving Teacher Education Programs) is to clarify payment responsibilities for conducting both in-state and out-of-state teacher preparation program reviews.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Professional Standards Commission, at its March 4-5 meeting, approved the recommendation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact either Mike Stefanic at 332-6884 or Keith Potter at 332-6887.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August 2004.

Dr. Michael P. Stefanic
Bureau Chief – Certification/Professional Standard
Administrator – Professional Standards Commission
Department of Education, Bureau of Certification/Professional Standards
650 West State
P.O. Box 83720, Boise, Idaho 83720-0027
Phone: (208) 332-6884
FAX: (208) 334-2094

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0409

100. OFFICIAL VEHICLE FOR APPROVING TEACHER EDUCATION PROGRAMS.
(Section 33-114, Idaho Code) (4-1-97)

01. The Official Vehicle for the Approval of Teacher Education Programs. The official vehicle for the approval of teacher education programs will be the National Council for Accreditation of Teacher Education (NCATE) approved Idaho Standards for the Initial Certification of Professional School Personnel as approved on ~~*November*~~ June 200~~3~~4. The State Department of Education will transmit to the head of each Idaho college or department of education a copy of all revisions to the Idaho Standards for the Initial Certification of Professional School Personnel. Such revisions will not take effect on approval evaluations of the Idaho program until two (2) years after notification of such revision. The two (2) year deferral may be waived upon written request of the head of the college or department to be evaluated ~~*(3-16-04)*~~( )

02. Effective Date. The effective date for the NCATE approved Idaho Standards for the Initial Certification of Professional School Personnel is September 1, 2001. Students with junior or senior standing and currently enrolled in an institution's program that does not meet the Standards will be eligible for certification in Idaho after successfully completing their program if this program is completed within two (2) years of the September 1, 2001 effective date. All programs not meeting the Standards will be responsible for informing enrolled students of their non-compliance. (3-30-01)

03. Reference Availability. The Idaho Standards for the Initial Certification of Professional School Personnel are incorporated herein by reference and are available for inspection in the Office of the State Board of Education. (3-30-01)

04. Continuing Accreditation. The state of Idaho will follow the National Council for Accreditation of Teacher Education (NCATE) model and pursue continuing approval at the end of seven (7) years following baseline approval. (3-16-04)

05. Payment Responsibilities for Teacher Preparation Program Reviews. The Professional Standards Commission is responsible for Idaho teacher preparation program reviews, including assigning responsibility for paying for program reviews. To implement the reviews, it is necessary that: ( )

a. The Professional Standards Commission pay for all in-state expenses for on-site teacher preparation reviews from its budget. ( )

b. Requesting institutions pay for all out-of-state expenses related to on-site teacher preparation program reviews. ( )

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0401

NOTICE OF RULEMAKING - PENDING AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is March 19, 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. The action is authorized pursuant to Section(s) Sections 33-105(1) and 33-107(3), 33-116, 33-118, and 33-1612, Idaho Code, Article IX, Section 2 of the Idaho Constitution, 20 U.S.C.A Section 6311, and Section 1111(b)(3) and 1111(b)(7) of the No Child Left Behind Act..

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.

New guidance was received from the U.S. Department of Education on February 23, 2004, regarding the testing of Limited English Proficient (LEP) students. The guidance informed states that the testing and classification of LEP students, specifically those students "enrolled in their first year of a U.S. school," could be changed and still comply with the "No Child Left Behind" (NCLB) Act.

The specific flexibilities are (1) Allowing this specific group of new LEP students to take a language proficiency test in lieu of the state reading test; and (2) counting the participation of such students, but not including the scores for proficiency calculations. In addition, the flexibility outlined also allows states to classify LEP students as LEP for two additional years beyond the original guidance in NCLB.

The pending rules have been further amended to reflect guidance received on March 29, 2004, from the U.S. Department of Education outlining two areas of flexibility in calculating the participation rates for all students. Those are (1) Participation rates can be calculated on a three-year average; and (2) Students who are absent during the entire testing window for a medical condition are not required to take the test.

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 June 2, 2004 Idaho Administrative Bulletin, Vol. 04-6, pages 30 - 36.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to the temporary rule, contact Carissa Miller at (208) 332-1573.

DATED this 12th day of August, 2004.

Karen L. Echeverria, Paralegal
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street
PO Box 83720, Boise, ID 83720
(208) 334-2270 phone / (208) 334-2632 fax

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-0401

Subsection 111.04.c.

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

04. Testing Population. All students in Idaho public schools, grades kindergarten through ten (K-10), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (3-19-04)T

a. All students who are eligible for special education shall participate in the statewide assessment program. (3-19-04)T

b. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (3-19-04)T

c. Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score in the low range on the State Board of Education approved language acquisition proficiency test and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations for three (3) consecutive years. A further extension of two (2) consecutive years may be granted by the local district or local education agency, provided the language proficiency test score is still in the low range. Students can be categorized as LEP students for two (2) years after testing proficient on the language proficiency test. Students cannot exceed a total of seven (7) years as an LEP student. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may take ~~*the*~~ an English Proficiency test approved by the Board in lieu of the reading/ language usage ISAT, but will still be required to take the math ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02. ~~*(3-19-04)T*~~(3-19-04)T

Subsection 112.03.b.i.(2)

112. ACCOUNTABILITY.
The provisions in this section apply for the purposes of meeting the "No Child Left Behind" Act and the state of Idaho accountability requirements. (3-20-04)

03. Adequate Yearly Progress (AYP) Definitions. For purposes of calculating and reporting adequate yearly progress, the following definitions shall be applied. (3-20-04)

b. Participation Rate. (3-20-04)

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved AYP. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-20-04)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (3-19-04)T

(2) Students who are absent for the entire state-approved testing window because of a significant medical ~~*condition*~~ emergency are exempt from taking the ISAT if such circumstances prohibit them from participating. ~~*(3-19-04)T*~~(3-19-04)T

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0404

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 12, 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 33-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Staff was unable to determine which schools were eligible for awards because the reward criteria were not specific. "Distinguished Schools" is a reward required by the federal law. Staff has ensured that the reward criteria has been outlined and is consistent with federal requirements.

The rule has been changed to add clarification to the rewards naming structure and specific reward criteria has been added. Two rewards have been combined into one category to ease understanding.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To be in compliance with deadlines in amendments to governing law or federal programs. In order to grant the awards this year, rules needed to be in place prior to the next legislative session.

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: NA

NEGOTIATED RULEMAKING Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule amendment is non-controversial in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Carissa Miller at (208) 332-1573

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004

DATED this 12th day of August, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
Office of the State Board of Education
650 West State Street, Rm. 307
Boise, Idaho 83720
(208)332-1567
fax: (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0404

113. REWARDS.

~~***01.*** ***Exemplary Status.*** *Exemplary Status is issued to a public school when the measure of the school's student and school performance and progress exceeds the proficient level performance on the baseline adopted by the Board.* *(3-20-04)*~~

0~~2~~1. Distinguished Schools. The State Board of Education may ~~*identify Title I schools that*~~ recognize as "Distinguished Schools" the top five percent (5%) of schools exceeding the Idaho ~~*performance standards as Distinguished Schools*~~ Adequate Yearly Progress (AYP) intermediate targets listed in Subsection 112.02, of this rule, and significantly reducing the gaps between subgroups listed in Subsection 112.03.d. of this rule.
~~*(3-20-04)*~~(8-12-04)T

0~~3~~2. Additional Yearly Growth (AYG) Award. Schools ~~*and districts who*~~ demonstrating improved proficiency levels of subpopulations or in the aggregate by greater than ten percent (10%) ~~*would*~~ be considered to have achieved AYG. ~~*Given that the school/district has met AYP, AYG would designate the school/district for a reward.*~~ The school must have achieved Adequate Yearly Progress (AYP) to be eligible for this award.
~~*(3-20-04)*~~(8-12-04)T

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.04 - RULES GOVERNING CHARTER SCHOOLS

DOCKET NO. 08-0204-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 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(s) 33-105, 33-5203, and 33-5213, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Via video conference, October 14, 2004 beginning at
7:30 p.m. Mountain Time and 6:30 p.m. Pacific Time in these locations:

Boise State University
Simplot Micron Building, Room 210
1910 University Drive
Boise, Idaho

College of Southern Idaho
Evergreen Building Room, C-76
315 Falls Avenue
Twin Falls, Idaho

Idaho State University
Eli Oboler Library, Building 50, Room B78
921 South 8th Street
Pocatello, Idaho

Eastern Idaho Technical College
Administration Building, Room 371
Corner of Hitt Road and 17th Street
Idaho Falls, Idaho

University of Idaho
Agricultural Science Building, Room 104
Corner of 6th and Rayburn
Moscow, Idaho

North Idaho College
Workforce Training Center
525 West Clearwater Loop
Post Falls, Idaho

Lewis-Clark State College
Sam Glenn Complex, Room 50
500 8th Avenue
Lewiston, Idaho

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 chapter is being repealed pursuant to the passage of Senate Bill No. 1444a by the 2004 Idaho Legislature, which made substantial amendments to Idaho's laws governing public charter schools. This chapter is being rewritten under Docket No. 08-0204-0402 that is being published in this Bulletin following this notice.

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

This rulemaking is necessary to comply with new governing law passed by the 2004 Idaho Legislature under Senate Bill No. 1444a.

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 there is an immediate need for the repeal and rewrite of this chapter in accord with the amended laws passed by the 2004 Idaho Legislature under Senate Bill No. 1444a.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Karen Echeverria at (208) 332-1567.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 12th day of August, 2004.

Karen L. Echeverria
Office of the State Board of Education
Policy and Governmental Affairs Officer
650 West State Street, Rm. 307
Boise, Idaho 83720
(208)332-1567
fax: (208) 334-2632

IDAPA 08.02.04 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-0402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 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(s) 33-105, 33-5203, and 33-5213, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Via video conference, October 14, 2004 beginning at
7:30 p.m. Mountain Time and 6:30 p.m. Pacific Time in these locations:

Boise State University
Simplot Micron Building, Room 210
1910 University Drive
Boise, Idaho

College of Southern Idaho
Evergreen Building Room, C-76
315 Falls Avenue
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Eli Oboler Library, Building 50, Room B78
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Eastern Idaho Technical College
Administration Building, Room 371
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University of Idaho
Agricultural Science Building, Room 104
Corner of 6th and Rayburn
Moscow, Idaho

North Idaho College
Workforce Training Center
525 West Clearwater Loop
Post Falls, Idaho

Lewis-Clark State College
Sam Glenn Complex, Room 50
500 8th Avenue
Lewiston, Idaho

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 chapter is a new chapter of rules and is being rewritten to update the rules governing charter schools pursuant to the passage of Senate Bill No. 1444a by the 2004 Idaho Legislature, which amended Idaho's laws governing public charter schools.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of these rules is appropriate for the following reasons: This rulemaking is necessary to comply with new governing law passed by the 2004 Idaho Legislature under Senate Bill No. 1444a.

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 there is an immediate need for rulemaking to provide rules for the enforcement of the amended public charter school laws passed by the 2004 Idaho Legislature under Senate Bill No. 1444a.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Karen Echeverria at (208) 332-1567.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 12th day of August, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
Office of the State Board of Education
650 West State Street, Rm. 307
Boise, Idaho 83720
(208)332-1567 / fax: (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0204-0402

IDAPA 08
TITLE 02
CHAPTER 04

08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS

000. LEGAL AUTHORITY.
In accordance with Sections 33-105, 33-5203, and 33-5213, Idaho Code, the Board shall promulgate rules implementing the provisions of Title 33, Chapter 52, Idaho Code. (4-1-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 08.02.04, Rules Governing Public Charter Schools. (4-1-04)T

02. Scope. These rules establish a consistent application and review process for the approval and maintenance of public charter schools in Idaho. (4-1-04)T

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the offices of the Board. (4-1-04)T

003. ADMINISTRATIVE APPEALS.
The provisions found in Sections 400 through 404, of these rules, shall govern administrative appeals of public charter schools. (4-1-04)T

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into these rules. (4-1-04)T

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-1-04)T

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-1-04)T

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-1-04)T

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (4-1-04)T

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-1-04)T

06. Electronic Address. The electronic address of the Board is www.idahoboardofed.org. (4-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.
These rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (4-1-04)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Authorized Chartering Entity. Is defined in Section 33-5202A(1), Idaho Code, and means either the local board of trustees of a school district in this state, or the Idaho Public Charter School Commission. (4-1-04)T

02. Board. Means the Idaho State Board of Education. (4-1-04)T

03. Charter. Is defined in Section 33-5202A(2), Idaho Code, and means the grant of authority approved by the authorized chartering entity to the board of directors of the charter school. (4-1-04)T

04. Commission. Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. (4-1-04)T

05. Department. Means the Idaho Department of Education. (4-1-04)T

06. Founder. Is defined in Section 33-5202A(3), Idaho Code, and means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits. (4-1-04)T

07. Petition. Is defined in Section 33-5202A(4), Idaho Code, and means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school. (4-1-04)T

08. Petitioners. Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. (4-1-04)T

09. Public Charter School. Is defined in Section 33-5202A(6), Idaho Code, and means a school that is authorized under the Public Charter Schools Act, Title 33, Chapter 52, Idaho Code, to deliver public education in Idaho. (4-1-04)T

10. Public Virtual School. Is defined in Section 33-5202A(6), Idaho Code, and means a public charter school that may serve students in more than one (1) school district and that provides instruction to pupils primarily through virtual distance learning or online technologies. (4-1-04)T

11. School Year. Means the period beginning on August 1 and ending the next succeeding July 31 of each year. (4-1-04)T

011. -- 099. (RESERVED).

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Number of New Public Charter Schools Approved for a School Year. Section 33-5203(2), Idaho Code, limits the number of new public charter schools that may be approved for a school year to not more than six (6), and further limits the number of new public charter schools that may be approved for a single school district for a school year to not more than one (1). The Board shall use the procedure described in Section 100, of these rules, for implementing this limitation on the approval of new public charter schools. (4-1-04)T

02. Responsibilities of Petitioners on Grant of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall be responsible for providing the Board with written notice of such approval, and shall submit a copy of the final approved petition to the Board, as required by Section 33-5206(6), Idaho Code. In addition, in the event the final approved petition is revised at any time, as permitted by Section 33-5209(1), Idaho Code, and pursuant to the procedures described in Section 302, of these rules, the petitioners shall also be responsible for submitting copies of any such charter revisions to the Board. (4-1-04)T

03. Chronological Numbering System. The Board shall record the date and the time that it receives each final approved petition for a new public charter school. In addition, the Board shall assign a number to each final approved petition that it receives on a chronological basis, beginning with the numeral "1," and continuing sequentially thereafter. The Board shall maintain a chronological list of approved charters for the purpose of determining which public charter schools shall be permitted to begin operations during a given school year.
. (4-1-04)T

04. Authorization to Begin Operations. The six (6) public charter schools that will be authorized to begin operations during a given school year shall be those public charter schools that have been assigned the lowest chronological number by the Board, and which are eligible to begin operations at some time during such school year. A public charter school will be considered "eligible" in accordance with the preceding sentence if the public charter school has received approval from its authorized chartering entity to begin operations at some time during such school year. In addition, a public charter school will be considered "eligible" only if no other public charter school located within the same school district has been assigned a lower chronological number, and has been approved to begin operations during such school year. A public charter school that is not authorized to begin operations because it is not "eligible," as described herein, shall maintain its position on the Board's chronological list of approved charters, and shall be under consideration for authorization to begin operations during the next succeeding school year. A public charter school that is approved by an authorized chartering entity, but which does not begin operations because it is not "eligible," as described herein, must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin operations during such school year. (4-1-04)T

05. Notification. The Board shall, as soon as reasonably practicable after determining that a public charter school will be authorized to begin operations during a given school year, provide written notification to the petitioners. The Board shall also send a copy of such notification to the authorized chartering entity that approved the charter. (4-1-04)T

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Assistance with Petitions. The Department shall, in accordance with Section 33-5211, Idaho Code, provide technical assistance to public charter school petitioners. The Department shall undertake this statutory responsibility by conducting public charter school workshops, as discussed in Subsection 200.02 of this rule.
(4-1-04)T

02. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. Petitioners, or a representative on behalf of petitioners, must attend a public charter school workshop prior to submitting a petition to form a proposed new public charter school with an authorized chartering entity. (4-1-04)T

03. Legal Sufficiency Reviews. Prior to filing a petition with an authorized chartering entity, petitioners shall submit the proposed draft petition to the Department, which will conduct a legal sufficiency review to determine whether the petition complies with statutory requirements. If the Department determines that a petition complies with statutory requirements, then the petitioners may file the petition with an authorized chartering entity. (4-1-04)T

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

01. Charter School Policies and Procedures. An authorized chartering entity may adopt its own charter school policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the charter school policies and procedures adopted by the authorized chartering entity with which a petition is filed. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. (4-1-04)T

02. Application Deadline. The date by which a petition must be filed with an authorized chartering entity in order for a proposed new charter school to be eligible to begin operations during a given school year shall be not later than the first of February preceding such school year. A petition filed after such date may not be rejected by an authorized chartering entity as untimely, but if the petition is approved and the charter is granted, the proposed public charter school will not be eligible to begin operations until the next succeeding school year at the earliest, and only if authorized to begin operations during such school year in accordance with the approval procedure described in Subsection 100.04. of these rules. (4-1-04)T

202. PETITION REQUIREMENTS.
A petition to form a new or conversion public charter school shall be submitted in accordance with instructions, and in such format, as may be required by the Board. Notwithstanding, the petition must include, at a minimum, the information described in Section 33-5205, Idaho Code. (4-1-04)T

203. ADMISSION PROCEDURES.

01. Model Admission Procedures. In accordance with Section 33-5205(3)(i), Idaho Code, a petition to establish a new public charter school must describe the admission procedures to be utilized by the public charter school. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.13 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. (4-1-04)T

02. Enrollment Opportunities. Section 33-5205(3)(s), Idaho Code, requires petitioners to describe the process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. Petitioners shall ensure that such process includes the dissemination of enrollment information, printed in both English and Spanish, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release and/or public service announcements, to media outlets that broadcast within, and/or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such

announcements are broadcast and/or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status, or special needs. (4-1-04)T

03. Enrollment Deadline. Each year a public charter school shall establish an enrollment deadline, which shall be the date by which all requests for admission to attend the public charter school for the next school year must be received. (4-1-04)T

04. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single request for admission must be submitted on behalf of all siblings. The request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The request for admission shall contain the name, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. (4-1-04)T

05. Admission Preferences. A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish admission preferences, as authorized by Section 33-5205(3)(i), Idaho Code, for students returning to the public charter school, for children of founders, and for siblings of students already selected to attend the public charters school. Such admission preferences must be approved by the authorized chartering entity and described in the final approved petition. (4-1-04)T

06. Priority of Preferences for Initial Enrollment. If a public charter school determines to establish admission preferences for initial enrollment of students in a public charter school, then the selection hierarchy with respect to such preferences shall be as follows: (4-1-04)T

a. First, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the initial capacity of the public charter school. (4-1-04)T

b. Second, to siblings of pupils already selected by the lottery or other random method. (4-1-04)T

c. Third, to prospective students residing in the attendance area of the public charter school. (4-1-04)T

d. Fourth, an equitable selection process, such as by lottery or other random method. (4-1-04)T

07. Priority of Preferences for Subsequent Enrollment Periods. If a public charter school determines to establish admission preferences for enrollment of students in a public charter school in subsequent school years, then the selection hierarchy with respect to such preferences shall be as follows: (4-1-04)T

a. First, to pupils returning to the public charter school in the second or any subsequent year of operation. (4-1-04)T

b. Second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school. (4-1-04)T

c. Third, to siblings of pupils already enrolled in the public charter school. (4-1-04)T

d. Fourth, to prospective students residing in the attendance area of the public charter school. (4-1-04)T

e. Fifth, an equitable selection process, such as by lottery or other random method. (4-1-04)T

08. Proposed Attendance List. Each year the public charter school shall maintain a proposed attendance list containing the names of all prospective students on whose behalf a request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated "A" for returning student preference; "B" for founders preference; "C" for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and "D" for attendance area preference. (4-1-04)T

09. Equitable Selection Process. If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows. (4-1-04)T

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, beginning with the highest grade. The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. (4-1-04)T

b. A neutral, third party shall draw each index card from the container, and such person shall write the selection number on each index card as drawn, beginning with the numeral "1" and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. (4-1-04)T

c. If the name of the person selected is a returning student, then the letter "A" shall be written on such index card. If the name of the person selected is the child of a founder, the letter "B" shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter "C" shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter "D" shall be written on such index card. (4-1-04)T

d. With regard to the sibling preference, if the name of the person selected has a sibling in a higher grade who has already been selected, but the person previously selected did not have the letter "C" written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter "C" shall now be written on that person's index card at this time. (4-1-04)T

e. With regard to the founder's preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter "B." When the number of index cards marked with the letter "B" equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter "B," even if such person selected would otherwise be eligible for the founders preference. (4-1-04)T

f. After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter "A" shall be sorted first, based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (4-1-04)T

g. After the index cards have been sorted for each grade level, the names shall be transferred by grade level, and in such order, to the final selection list. (4-1-04)T

10. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (4-1-04)T

11. Notification and Acceptance Process. (4-1-04)T

a. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. (4-1-04)T

b. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the parent, guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (4-1-04)T

c. If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-1-04)T

d. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-1-04)T

12. Subsequent School Years. The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (4-1-04)T

204. FILING A PETITION.

01. New Public Charter School. To institute the approval process for the formation of a new public charter school, the petitioners must file a petition with the local board of trustees of the school district in which the proposed new public charter school will be located, as required by Section 33-5205(a), Idaho Code. (4-1-04)T

02. New Public Virtual School. The petitioners for a new public virtual school that will serve students in more than one (1) school district in the state may choose to file the petition for approval with the Commission, as an authorized chartering entity, as permitted by Section 33-5203(5), Idaho Code, instead of with the local board of trustees of the school district in which the proposed new public virtual school will be located. (4-1-04)T

03. Notification to the Board. Petitioners shall promptly notify the Board that a petition has been filed with an authorized chartering entity. (4-1-04)T

205. REVIEW OF PETITIONS.

01. Initial Review of Petition. Prior to filing a petition with an authorized chartering entity, petitioners shall submit the proposed draft petition to the Department, which shall conduct a legal sufficiency review of the draft petition for the purpose of determining whether it was prepared in accordance with the instructions furnished by, and in the format required by, the Board, and contains the information required by Section 33-5205, Idaho Code. (4-1-04)T

02. Timeframe for Initial Review. The Department shall complete the initial review of the draft

petition as soon as reasonably practicable after the date the draft petition is received by the Department, but not later than thirty (30) days after receipt. (4-1-04)T

03. Notification of Findings After Initial Review. The Department shall notify the petitioners promptly in writing describing the results of the initial review of the draft petition, and, if applicable, identify any deficiencies in the draft petition. (4-1-04)T

04. Substantive Review of Petition. The substantive review of the merits of a petition by an authorized chartering entity shall be for the purpose of determining whether petitioners have demonstrated compliance with Title 33, Chapter 52, Idaho Code. In order to promote a fair and equitable review of petitions for public charter school formations in the state, the Board may adopt model evaluation procedures for use by authorized chartering entities. (4-1-04)T

05. Timeframe for Substantive Review. An authorized chartering entity must comply with the procedural requirements described in Section 33-5205, Idaho Code. (4-1-04)T

a. Unless a petition is referred to the Commission as authorized by Section 33-5205(1)(a)(iii), Idaho Code, and as discussed in Subsection 206.01, of these rules, an authorized chartering entity must hold a meeting open to the public, not later than thirty (30) days after receipt of the petition, for the purpose of considering the merits of the petition, as well as the level of employee and parental support for the proposed public charter school. In the case of a petition being reviewed by the Commission, the meeting must also include any oral or written comments from an authorized representative of the school district in which the proposed public charter school would be physically located regarding the merits of the petition and any potential impacts on the school district. (4-1-04)T

b. An authorized chartering entity must make a decision on whether to approve the petition and grant the charter within sixty (60) days after receipt of the petition. (4-1-04)T

c. An authorized chartering entity and the petitioners may mutually agree to extend the date by which a decision is required to be made on the merits of the petition up to an additional sixty (60) days. In addition, the authorized chartering entity may unilaterally determine to extend the date by which a decision is required to be made up to an additional sixty (60) days if it determines the petition is incomplete or fails to contain the requisite signatures. (4-1-04)T

06. If Approved, Charter Is Granted, Subject to Limitations on Number of New Charters. (4-1-04)T

a. If a petition is approved, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to approve the charter. It shall be the responsibility of the petitioners to provide the Board with this written notice of approval, and with a copy of the final approved petition, in accordance with the procedure described in Section 100 of these rules. (4-1-04)T

b. The grant of a charter by an authorized chartering entity does not provide the petitioners with any right to begin operating the public charter school during a particular school year, or in accordance with the terms and conditions of the charter, as such approval is conditioned upon the limitations on the number of new public charter schools that may be approved for a school year, as described in Section 100 of these rules. (4-1-04)T

07. If Denied, Petitioners May Appeal. (4-1-04)T

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states and/or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. (4-1-04)T

b. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. (4-1-04)T

206. WITHDRAWAL OF PETITION; REFERRAL OF PETITION TO THE COMMISSION.

01. Referral of Petition by Local Board of Trustees. A board of trustees of a local school district may refer the petition for consideration to the Commission, as authorized by Section 33-5205(1)(a)(iii), Idaho Code. If a board of trustees of a local school district determines to refer a petition to the Commission, then it shall provide prompt notice of such decision to the petitioners. In addition, the board of trustees of a local school district must promptly forward the petition to the Commission. (4-1-04)T

02. Withdrawal by Charter Petitioners. Notwithstanding, if a board of trustees of a local school district does not refer a petition to the Commission, the charter petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration if, within thirty (30) days after the submission of the petition with the authorized chartering entity, the parties have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort. (4-1-04)T

03. Reasonable and Good Faith Effort. A board of trustees of a local school district will be considered to have made a reasonable and good faith effort to consider the merits of a petition if it has taken an affirmative step to substantively review the petition by posting notice of an open meeting for the purpose of considering the merits of the petition, and such meeting is scheduled to occur not later than thirty (30) days after the date of submission of the petition with the authorized chartering entity. (4-1-04)T

207. -- 299. (RESERVED).

300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.

01. General. The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for ensuring compliance with Section 33-5204(1), Idaho Code. (4-1-04)T

02. Compliance with Terms of Charter. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with all of the terms and conditions of the charter approved by the authorized chartering entity of the school, as reflected in the final approved petition filed with the Board. In addition, the governing board of the public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. (4-1-04)T

03. Annual Reports. The governing board of a public charter school must submit an annual report to the authorized chartering entity of the school, as required by Section 33-5206(7), Idaho Code. The report shall contain the audit of the fiscal and programmatic operations as required in Section 33-5205(3)(j), Idaho Code, a report on student progress based on the public charter school's student educational standards identified in Section 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report. An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its charter. (4-1-04)T

04. Operational Issues. The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its charter. Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. (4-1-04)T

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

01. Compliance Monitoring. Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for ensuring that the public charter school operates in accordance with all of the terms and conditions of the charter approved by the authorized chartering entity, as reflected in the final approved petition filed with the Board, and as provided by Section 33-5209(1), Idaho Code. The authorized chartering entity also shall be responsible for ensuring that the public charter school program approved by the

authorized chartering entity meets the terms of the charter, complies with the general education laws of the state, unless specifically directed otherwise in Chapter 52, Title 33, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in Section 33-1612, Idaho Code, as provided in Section 33-5210(2), Idaho Code. (4-1-04)T

02. Written Notice of Defect. If an authorized chartering entity has reason to believe that a public charter school has committed any defect identified in Section 33-5209(2)(a)(e), Idaho Code, then the authorized chartering entity shall provide the public charter school with prompt written notice of such defect, and shall provide the public charter school a reasonable opportunity to cure such defect. (4-1-04)T

03. Corrective Action Plan. The public charter school shall provide the authorized chartering entity with a corrective action plan describing the public charter school's plan to cure the defect. The corrective action plan shall describe in detail the terms and conditions by which the public charter school will cure the defect at issue, including a reasonable time frame for completion. The public charter school shall send a copy of the corrective action plan to the Board. (4-1-04)T

04. Failure to Cure. If a public charter school fails to comply with the terms and conditions of the corrective action plan and to cure the defect at issue within a reasonable time, then the authorized chartering entity may provide notice to the public charter school of its intent to revoke the charter, as permitted by Section 33-5209(3), Idaho Code, and in accordance with Section 303 of these rules. (4-1-04)T

302. CHARTER REVISIONS.
A public charter school may reasonably request that its authorized chartering entity revise its charter, as authorized by Section 33-5209(1), Idaho Code. (4-1-04)T

01. Request for Revision. A public charter school that desires to revise its charter must file a written request describing the proposed revisions with the public charter school's authorized chartering entity. (4-1-04)T

02. Limited Review. The authorized chartering entity shall only be permitted to review and consider the proposed revisions to the charter, and shall not have authority to make other charter revisions that are not requested by the public charter school. (4-1-04)T

03. Procedure for Reviewing Request for Charter Revision. The authorized chartering entity shall have thirty (30) days from the date the proposal for a charter revision is submitted to it in which to issue its decision on the request for charter revision. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter revision. (4-1-04)T

04. Approval of Proposed Charter Revision. If the authorized chartering entity approves the proposed charter revision, a copy of such revision shall be executed by each of the parties to the charter contract and shall be treated as either a supplement to, or amendment of, the final approved petition, whatever the case may be. The governing board of the public charter school shall be responsible for sending a copy of the charter revision to the Board, as required by Subsection 100.02. of these rules. (4-1-04)T

05. Denial of Proposed Charter Revision. If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter revision. The decision to deny a request for a charter revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter revision to the Board. The provisions of Section 403, of these rules, shall govern the appeal. (4-1-04)T

303. REVOCATION.
An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303, of this rule, if a public charter school has failed to cure a defect with respect to the operation of the public charter school, as described in Subsection 301.04 of these rules, after receiving reasonable notice and a reasonable opportunity to cure the defect. (4-1-04)T

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (4-1-04)T

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. (4-1-04)

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (4-1-04)T

b. The public hearing shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (4-1-04)T

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has not complied with the corrective action plan and cured the defect at issue, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (4-1-04)T

304. -- 399. (RESERVED).

400. APPEALS.
The following actions relating to public charter schools may be appealed to the Department or to the Board, as applicable, in accordance with the procedures described in Sections 401 through 403 of these rules: (4-1-04)T

01. Denial of New Petition. The denial by an authorized chartering entity of a petition to form a new public charter school, as authorized by Section 33-5207, Idaho Code. (4-1-04)T

02. Grant of Conversion Petition. The granting by an authorized chartering entity of a petition to convert a traditional public school to a public charter school over the objection of thirty (30) or more persons or employees of the local school district, as authorized by Section 33-5207, Idaho Code. (4-1-04)T

03. Denial of Charter Revision. The denial by the authorized chartering entity of a public charter school of a request to revise a charter, as authorized by Section 33-5209(4), Idaho Code. (4-1-04)T

04. Revocation. A decision of an authorized chartering entity to revoke a charter, as authorized by Section 33-5209(4), Idaho Code. (4-1-04)T

401. APPEAL TO THE DEPARTMENT OF A DECISION RELATING TO THE FORMATION OF A NEW OR CONVERSION PUBLIC CHARTER SCHOOL.
The denial of a petition to form a new public charter school, or the granting of a petition to form a conversion public charter school over the objection of thirty (30) or more persons or employees of the local school district, may be appealed to the Department, as provided by Section 33-5207(1), Idaho Code. The following procedures shall govern such appeals. (4-1-04)T

01. Filing of Appeal. To institute an appeal, the petitioners/appellants shall file a notice of appeal and request for public hearing in writing with the Department that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the decision of the authorized chartering entity that reviewed the petition. A copy of the notice of appeal shall be filed with the authorized chartering entity, and with the Board. In addition, contemporaneous with the filing of the notice of appeal, the petitioners/appellants shall also file with the Department two (2) copies of the complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (4-1-04)T

a. The name, address, and telephone number of the person or persons filing the appeal on behalf of petitioners/appellants, as well as the authorized chartering entity that issued the decision being appealed. (4-1-04)T

b. The complete petition that was filed with the authorized chartering entity, including any amendments thereto or supplements thereof. (4-1-04)T

c. Copies of the minutes from all meeting(s) where the petition was considered and/or discussed. (4-1-04)T

d. All correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition from the date the original petition was filed until the date the authorized chartering entity issued the decision being appealed. (4-1-04)T

e. The written decision provided by the authorized chartering entity to the petitioner. A copy of such notice of appeal shall be submitted to the authorized chartering entity whose decision is being appealed, and to the Board. (4-1-04)T

02. Hearing Officer. The Department shall hire a hearing officer to review the action of the authorized chartering entity and to conduct a public hearing, pursuant to Section 67-5242, Idaho Code. The Department shall forward to the hearing officer one (1) copy of the record provided by petitioners/appellants and attached to the notice of appeal. (4-1-04)T

03. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted by the hearing officer within thirty (30) days after the date of the filing of the notice of appeal and request for a public hearing with the Department. (4-1-04)T

04. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time, place, and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-1-04)T

05. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-1-04)T

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. Any party may request that a transcript of the recorded hearing be prepared, at the expense of the party requesting such transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-1-04)T

07. Hearing Officer's Recommendation. The hearing officer shall issue a recommendation within ten (10) days after the date of the hearing. The recommendation shall include specific findings on all major facts at issue; a reasoned statement in support of the decision; all other findings and recommendations of the hearing officer; and a recommendation affirming or reversing the decision of the authorized chartering entity. The hearing officer shall mail or deliver a copy of the recommendation to the Department, the petitioners/appellants, and the authorized chartering entity. (4-1-04)T

08. Review of Recommendation by Authorized Chartering Entity. (4-1-04)T

a. The authorized chartering entity shall hold a public hearing to review the recommendation of the

hearing officer within thirty (30) days of receipt of the recommendation. (4-1-04)T

b. Written notification of the scheduled public hearing shall be sent by the authorized chartering entity to the petitioners/appellants at least ten (10) days prior to the scheduled hearing date. (4-1-04)T

c. The authorized chartering entity shall make a final decision to affirm or reverse its initial decision within ten (10) days after the date the public hearing is conducted. (4-1-04)T

09. Reversal of Initial Decision. (4-1-04)T

a. If the authorized chartering entity reverses its initial decision and denies the conversion of a traditional public school to a public charter school, then that decision is final and there shall be no further appeal. (4-1-04)T

b. If the authorized chartering entity reverses its initial decision and approves the new public charter school, then the charter shall be granted and there shall be no further appeal. (4-1-04)T

10. Affirmation of Initial Decision. (4-1-04)T

a. If the authorized chartering entity affirms its initial decision to authorize the conversion of a traditional public school to a public charter school, then the charter shall be granted and there shall be no further appeal. (4-1-04)T

b. If the authorized chartering entity affirms its initial decision and denies the grant of a new public charter school, then the petitioners/appellants may appeal such final decision further to the Board in accordance with the procedure described in Section 402 of these rules. (4-1-04)T

402. APPEAL TO THE BOARD RELATING TO THE DENIAL OF A REQUEST TO FORM A NEW PUBLIC CHARTER SCHOOL.
The following procedures shall govern an appeal to the Board of the final decision of an authorized chartering entity relating to the denial of a petition to form a new public charter school. (4-1-04)T

01. Filing of Appeal. The petitioners/appellants shall file a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within twenty-one (21) days from the date the authorized chartering entity issues its final decision to deny a petition to form a new public charter school. A copy of the notice of appeal shall be filed with the authorized chartering entity. In addition, contemporaneous with the filing of the notice of appeal, the petitioners/appellants shall also file, with the Board, two (2) copies of a complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order, must be tabbed and indexed, and must contain, at a minimum, the following documents: (4-1-04)T

a. The complete record filed with the Department, as provided in Subsection 401.01.a through 401.01.e. of these rules. (4-1-04)T

b. A transcript, prepared by a neutral person whose interests are not affiliated with a party to the appeal, of the recorded public hearing conducted by the hearing officer, as described in Subsection 401.06. of these rules. (4-1-04)T

c. A copy of the hearing officer's recommendation. (4-1-04)T

d. Copies of the minutes of the public hearing conducted by the authorized chartering entity to consider the recommendation of the hearing officer, as described in Subsection 401.08.a through c. of these rules. (4-1-04)T

e. Copies of any additional correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition subsequent to the public hearing conducted by the Department. (4-1-04)T

f. The final written decision provided by the authorized chartering entity to the petitioners/appellants. (4-1-04)T

02. Public Hearing. A public hearing to review the final decision of the authorized chartering entity shall be conducted within a reasonable time from the date that the Board receives the notice of appeal, but not later than sixty (60) calendar days from such date. The public hearing shall be for the purpose of considering all of the materials in the record that were presented at prior proceedings. However, new evidence, testimony, documents, or materials that were not previously considered at prior hearings on the matter may be accepted or considered, in the sole reasonable discretion of the Board, or of the charter appeal committee or public hearing officer, as described in Subsection 402.04. of this rule. (4-1-04)T

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-1-04)T

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-1-04)T

05. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or appointed public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the decision; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming or reversing the decision of the authorized chartering entity, or such other action recommended by the charter appeal committee or public hearing officer, such as remanding the matter back to the authorized chartering entity, or redirecting the petition to another authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-1-04)T

06. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the petitioner/appellant and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board or by a charter appeal committee, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The final decision and order of the Board shall be sent to both the petitioners/appellants and the authorized chartering entity, and will not be subject to reconsideration. With respect to such written decision, the Board may take any of the following actions: (4-1-04)T

a. Approve the charter, if the Board determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request. In the event the Board approves the charter, the charter shall operate under the jurisdiction of the Commission, as provided by Section 33-5207(6), Idaho Code. (4-1-04)T

b. Remand the petition back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. (4-1-04)T

c. Redirect the petition for consideration to another authorized chartering entity. (4-1-04)T

d. Deny the appeal filed by the petitioners/appellants. (4-1-04)T

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR A CHARTER REVOCATION DECISION.
The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter revocation decision. (4-1-04)T

01. Filing of Appeal. The public charter school shall file a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to revoke a charter or to deny a charter revision. A copy of the notice of appeal shall be filed with the authorized chartering entity. In addition, contemporaneous with the filing of the notice of appeal, the appellant charter school shall also file with the Board eleven (11), three (3)-holed punched, copies of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (4-1-04)T

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (4-1-04)T

b. Copies of all correspondence and/or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. (4-1-04)T

c. Copies of the minutes from all meeting(s) where the matter on appeal was considered and/or discussed. (4-1-04)T

d. The written decision provided by the authorized chartering entity to the appellant public charter school. (4-1-04)T

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (4-1-04)T

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-1-04)T

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-1-04)T

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-1-04)T

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-1-04)T

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all

materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the decision; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, reversing, or modifying the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-1-04)T

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (4-1-04)T

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the revocation of the charter, or the request to revise the charter, or that the authorized chartering authority acted in an arbitrary manner in determining to revoke the charter, or in denying the request to revise the charter. (4-1-04)T

b. Remand the matter back to the authorized chartering authority for further consideration with directions or instructions relating to such further review. (4-1-04)T

c. Redirect the matter for consideration to another authorized chartering entity. (4-1-04)T

d. Deny the appeal filed by the appellants. (4-1-04)T

404. EX PARTE COMMUNICATIONS.
Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, no party to the appeal nor any representative of any such party to the appeal, nor any person or entity interested in such appeal, may communicate, directly or indirectly, regarding any substantive issue in the appeal with the Board or the charter appeal committee or any hearing officer appointed to hear or preside over the appeal hearing, except upon notice and opportunity for all parties to participate in the communication. (4-1-04)T

405. -- 499. (RESERVED).

500. MISCELLANEOUS.

01. Definition of LEA. As used in Section 500 of this rule, the term “local education agency” or “LEA” shall mean a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (4-1-04)T

02. LEA Designations. Section 33-5203(7), Idaho Code, provides that the Board shall be responsible to designate those public charter schools that will be identified as an LEA; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA. A public charter school may request to be designated as an LEA. Such request shall be in writing and state the reasons why the public charter school is requesting LEA status, and must be submitted to the executive director of the Board. The executive director of the Board shall have the responsibility of designating those public charter schools that will be identified as an LEA, in accordance with the following criteria. A public charter school that is chartered by the board of trustees of a school district shall be included in that district’s LEA, and the executive director of the Board shall not be permitted to designate such a school as an LEA, except that the executive director of the Board may designate a public virtual

school that is chartered by the board of trustees of a school district as an LEA. A public charter school that is charted by the Commission must be designated as an LEA. If the executive director determines, in his or her reasonable discretion, that a public charter school has demonstrated a compelling reason to be designated an LEA, but such public charter school is not eligible under the criteria contained herein, then the executive director may refer such request to the Board for consideration. (4-1-04)T

501. -- 999. (RESERVED).

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.03.01 - RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

DOCKET NO. 08-0301-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 21, 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 33-5213, 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 October 20, 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:

SB 1444 provides for sweeping reform of public charter schools in Idaho. The legislation provides for a newly formed seven-member committee appointed by the Governor. The committee can act as a chartering and oversight entity for new charter schools. These rules would set out the parameters of their governance and oversight authority.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To be in compliance with amendments to governing law.

SB 1444 took effect immediately upon signing by the Governor. In order for the newly formed Public Charter School Commission to operate their meetings, they need to have rules in place prior to the next legislative session.

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: NA

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the emergency clause in SB1444 required the rules to be in place immediately.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Karen Echeverria at (208) 332-1567.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 12th day of August, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
Office of the State Board of Education
650 West State Street, Rm. 307
Boise, Idaho 83720
(208)332-1567
fax: (208) 334-2632

IDAPA 08
TITLE 03
CHAPTER 01

08.03.01 - RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

000. LEGAL AUTHORITY.
The Public Charter School Commission, in accordance with Section 33-5213, Idaho Code, adopts these rules. (7-21-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 08.03.01, "Rules of the Public Charter School Commission". (7-21-04)T

02. Scope. These rules provide the requirements for the governance and administration of the Public Charter School Commission. (7-21-04)T

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations of the rules of this chapter, if any, are available at the offices of the Public Charter School Commission. (7-21-04)T

003. ADMINISTRATIVE APPEALS.
The provisions of Title 33, Chapter 52, Idaho Code, and IDAPA 08.02.04, "Rules Governing Public Charter Schools," govern appeals from decisions of the Commission. (7-21-04)T

004. INCORPORATION BY REFERENCE.
No documents have been incorporated by reference into these rules. (7-21-04)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The Public Charter School Commission is located in the offices of the Idaho State Board of Education. (7-21-04)T

01. Office Hours. The Board offices are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (7-21-04)T

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (7-21-04)T

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (7-21-04)T

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (7-21-04)T

05. Facsimile. The Board's FAX number is (208) 334-2632. (7-21-04)T

06. Electronic Address. The Board's web address is www.idahoboardofed.org. (7-21-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.
Commission records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-21-04)T

007. -- 099. (RESERVED).

100. DEFINITIONS.

01. **Board**. The Idaho State Board of Education or its designee. (7-21-04)T

02. **Commission**. The Public Charter School Commission or its designee. (7-21-04)T

101. -- 199. **(RESERVED).**

200. PROCEEDINGS BEFORE THE COMMISSION.
Proceedings or other matters before the Commission or its duly appointed hearing officer are governed by the provisions of Title 33, Chapter 52, Idaho Code, IDAPA 08.02.04, and these rules. (7-21-04)T

201. COMMUNICATIONS WITH COMMISSION.
All written communications and documents intended to be part of an official record of decision in any proceeding before the Commission of any hearing officer appointed by the Commission must be filed with the individual designated by the agency. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted. (7-21-04)T

202. COMPUTATIONS OF TIME.
Whenever statute, these or other rules, order, or notice requires an act be done within a certain number of days of a given day, the given day is not included in the count, but the last day of the period so computed is included in the count. If the day the act must be done is Saturday, Sunday, or a legal holiday, the act may be done on the first day following that is not a Saturday, Sunday, or legal holiday. (7-21-04)T

203. BOARD MEETINGS -- MAJORITY -- CHAIRMAN.

01. **Majority**. A simple majority of members voting shall be sufficient to decide any matter pending before the Commission. (7-21-04)T

02. **Chairman Vote**. The chairman shall vote only when necessary to break a tie. (7-21-04)T

204. -- 999. **(RESERVED).**

IDAPA 09 - IDAHO DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department of Commerce and Labor is adding definitions relating to electronic signatures as part of the enhanced claims system utilizing electronic communications for filing and reporting on claims. Definitions for "Personal Identification Number (PIN)," "Signature" and "Signed" are being added to the rule.

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: The changes to the rule confer a benefit to unemployment insurance benefit claimants by facilitating electronic transactions with the Department.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules are being added to ensure compliance with statutory requirements for electronic signatures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 Ext. 3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Department of Commerce and Labor
317 W. Main Street, Boise, Idaho 83735
Phone: 332-3570 Ext. 3233
Fax: 334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0401

010. DEFINITIONS.
Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Commerce and Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Commerce and Labor are performed. (3-19-99)

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Commerce and Labor by covered employers. (3-19-99)

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, as computed from data reported to the Department of Commerce and Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty-two (52). (3-19-99)

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

07. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

08. Claim. An application for unemployment insurance or "benefits". (3-19-99)

09. Combined Wage Claim. A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)

10. Compensable Claim. An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)

11. Contested Claim. A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)

12. Continued Claim. An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)

13. Employment. For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (3-19-99)

14. Full-Time Employment. A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)

15. **Initial Claim**. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)

16. **Interstate Claim**. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

17. **Intrastate Claim**. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)

18. **Itinerant Point**. A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)

19. **Liability Determination**. A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)

20. **Local Office**. A community office of the Department of Commerce and Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)

21. **Mail Claim**. A claim filed by mail rather than in person at a local office. (3-19-99)

22. **Monetary Determination**. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

23. **New Claim**. The first initial claim made in a benefit year. (3-19-99)

24. **Non-Monetary Determination**. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

25. **Personal Identification Number (PIN)**. A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (7-1-04)T

2~~5~~6. **Regular Claim**. A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

27. **Signature, Signed**. The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (7-1-04)T

2~~6~~8. **Telephone Claim**. A claim filed by telephone rather than in person at a local office. (3-19-99)

2~~7~~9. **Total Benefit Amount**. The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

~~28~~30. **Unemployment**. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)

~~29~~31. **Weekly Benefit Amount**. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0402

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.30.525 would be amended to require all holiday pay to be reported in the week the holiday occurs, which would simplify reporting requirements for both claimants and employers. The amendment would delete the current language requiring that holiday pay that is contingent upon an employee's return to work after the holiday is reportable when paid. All claimants would now report holiday pay as income for the claim week in which the holiday occurred. Confusion over when to report holiday pay has been a significant cause of overpayments for claimants. Employers who make holiday pay contingent on whether employees return to work after the holiday will no longer be liable for unemployment benefits paid for days for which they also paid holiday pay. Also, the U.S. Department of Labor is proposing a change in its benefit quality assessment process that allows states with this modified rule to forego verifying with employers holiday pay amounts received by claimants and the employers' holiday payment policies. This change would reduce staff time spent on the verification process by the Department and employers.

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:

Simplifying the rule would benefit claimants, employers, and Department staff by clarifying when holiday pay should be reported. Confusion over when to report holiday pay has been a significant cause of overpayments for claimants, which will now be avoided. Employers who make holiday pay contingent on whether employees return to work after the holiday will no longer be liable for unemployment benefits paid for days for which they also paid holiday pay.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being amended to clarify an existing rule that has caused confusion.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 Ext. 3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Department of Commerce and Labor
317 W. Main Street
Boise, Idaho 83735
Phone: 332-3570 Ext. 3233
Fax: 334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0402

525. REPORTABLE INCOME.
Ref. Sec.72-1312, 72-1328, Idaho Code. (3-19-99)

01. Back Pay Or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility. (3-19-99)

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes. (3-19-99)

03. Disability Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Sec. 72-1312(4), Idaho Code. (3-19-99)

04. Gratuities Or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. (3-19-99)

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs. ~~*Holiday pay that is contingent upon an employee's return to work after the holiday is considered a bonus and is reportable when paid.* *(3-19-99)*~~(7-1-04)T

06. Non-Periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid. (3-19-99)

07. Penalty Or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages. (3-19-99)

08. Pension, Retirement, Or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, the pension offset shall be reduced one hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Sec. 72-1312(4), Idaho Code. (3-19-99)

a. Pension Contributions. The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan.

(3-19-99)

b. Pension Payment Changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change. (3-19-99)

09. Relief Work Or Public Assistance. (3-19-99)

a. Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-19-99)

b. Eligibility When Public Assistance Received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible. (3-19-99)

10. Self-Employment Earnings. When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. (3-19-99)

11. Severance Pay. An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

12. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

13. Verification Of Earnings On Claim Reports. The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

14. Wages For Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-19-99)

15. Wages For Services Performed Prior To Separation. Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed change to IDAPA 09.01.35.040 clarifies that in order to qualify for a "good cause" waiver of the penalties imposed by the Employment Security Law, an employer must approach the Department to inquire about appropriate treatment of workers for tax purposes.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being amended to clarify the waiver eligibility criteria in an existing rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Mark Whitworth
Bureau Chief
Employer Accounts Bureau
Department of Commerce and Labor
317 W. Main Street, Boise, ID 83735
Phone: 332-3570 ext. 3266
Fax: 334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0401

040. COMPROMISE OF PENALTY.
Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence

supporting the request. (3-19-99)

01. Good Cause. An employer has good cause for the failure to timely pay contributions when, in the opinion of the Director or his authorized representative, the employer has established that one (1) of the following criteria has been met: (3-19-99)

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (3-19-99)

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (3-19-99)

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (3-19-99)

iii. Destruction by fire or other casualty of the employer's place of business or business records; or (3-19-99)

iv. Postal service delays. (3-19-99)

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (3-19-99)

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, who voluntarily approaches the Department to inquire as to whether workers are engaged in covered employment, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Sec. 72-1354, Idaho Code. ~~*(3-19-99)*~~( )

IDAPA 09 - IDAHO DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0402

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed change to IDAPA 09.01.35.134 would require a professional employer organization (PEO) to elect, for each client employer, either the PEO's experience rate or the client employer's experience rate. The change eliminates the option of reporting the workers of the client employer under the PEO's experience rate without transferring the prior benefit claims experience of the client employer.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being changed to comport with a recent federal statutory law change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Mark Whitworth
Bureau Chief
Employer Accounts Bureau
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
Phone: 332-3570 ext. 3266
Fax: 334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0402

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.
A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

01. Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

~~***b.*** *Report the workers included in the professional employer arrangement under the account number of the professional employer without transferring the experience rate of the client to the professional employer; or* *(3-15-02)*~~

~~**c**~~**b.** Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

02. Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(4), Idaho Code, from the date of the ~~*agreement*~~ contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Sec. 72-1351(4), Idaho Code. ~~*(3-20-04)*~~( )

03. Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

04. Mandatory Transfer of Experience Rate. If the professional employer organization elects to report the workers assigned to the client under the experience rate of the professional employer, and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory. Ref. Sec. 72-1351, and 72-1349B, Idaho Code. (3-15-02)

05. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

06. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

IDAPA 09 - IDAHO DEPARTMENT OF COMMERCE AND LABOR

09.02.04 - IDAHO GEM COMMUNITY IMPLEMENTATION GRANT PROGRAM

DOCKET NO. 09-0204-0401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section 67-4702, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes to IDAPA 09.02.04 eliminate the requirement that rural communities be certified as "Gem Communities" to be eligible for a Gem Community Implementation Grant. The program will be renamed the "Idaho Gem Grant Program" to reflect this change. This change will make Idaho Gem Grant funds more accessible to rural communities that lack the resources to support certification as a "Gem Community." The intent, goals and application of the program will remain the same.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because of the nature of the proposed changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jerry Miller, Rural Development Specialist, 332-3570 ext. 2143.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Jerry Miller
Rural Development Specialist
Department of Commerce and Labor
700 West State Street
P.O. Box 83720
Boise, ID 83720-0093
Phone: 332-3570 ext. 2143
Fax: 334-2631

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0204-0401

IDAPA 09
TITLE 02
CHAPTER 04

IDAHO GEM ~~*COMMUNITY IMPLEMENTATION*~~ GRANT PROGRAM

000. LEGAL AUTHORITY.
~~*The Idaho Gem Community Action Grant Program was created as part of Governor Kempthorne's Rural Development Initiative. The First Regular Session of the 56th Idaho State Legislature made funds available to create the Gem Community Implementation Grant (GCI) Program within the Idaho Department of Commerce and Labor (IDC).*~~ These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. ~~*(3-15-02)*~~( )

001. TITLE AND SCOPE.

01. Title. These rules shall be ~~*known*~~ cited as IDAPA 09.02.04, "Idaho Gem ~~*Community Implementation*~~ Grant Program". ~~*(3-15-02)*~~( )

02. Scope. ~~*These rules establish the process for application for and awarding of Idaho Gem Community Implementation Grants.*~~ The Idaho Gem Grant (IGG) Program was created as part of Governor Kempthorne's Rural Development Initiative. Successive sessions of the Idaho State Legislature made funds available to the Idaho Department of Commerce and Labor to fund the Governor's IGG Program. These rules implement the Department's procedures for project selection, award and disbursement of grant moneys for the Governor's IGG Program. ~~*(3-15-02)*~~( )

002. WRITTEN INTERPRETATIONS.
~~*The Idaho Department of Commerce and Labor may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce and Labor, 700 W State Street, Boise, Idaho 83720-0093.*~~ The Department has no written interpretations of these rules. ~~*(3-15-02)*~~( )

003. ADMINISTRATIVE APPEALS.
~~*Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to Section 67-5270, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".*~~ The award of grants under the IGG Program is a discretionary action to be performed by the Department. There is no provision for administrative appeal under these rules. ~~*(3-15-02)*~~( )

004. INCORPORATION BY REFERENCE.
~~*These rules do not contain documents incorporated by reference.*~~ The IGG Program Handbook is incorporated herein by reference. Copies of this document are available for public inspection and copying at the address indicated below or through the internet at: www.idoc.state.id.us/idcomm/comdev/grantprogram.html. ~~*(3-15-02)*~~( )

005. OFFICE -- OFFICE HOURS ~~*OFFICE HOURS*~~, MAILING ADDRESS, AND STREET ADDRESS.
The headquarters ~~*office*~~ of the Idaho Department of Commerce and Labor is in Boise, Idaho. ~~*This o*~~Office ~~*is open*~~ hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department's mailing address~~*, unless otherwise indicated,*~~ for information regarding the IGG Program is: Idaho Department of Commerce and Labor, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. ~~*(3-15-02)*~~( )

006. PUBLIC RECORDS ACT COMPLIANCE.
~~*All records relating to this chapter are public records except to the extent such records are by law exempt from disclosure.*~~ All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). ~~*(3-15-02)*~~( )

007. -- 011. (RESERVED).

012. PRIMARY OBJECTIVES.

01. ***Primary Objective.*** The primary objectives of the ~~*Gem Community Implementation Grant*~~ IGG Program ~~*is*~~ are to fund community development projects of ~~*Certified Gem*~~ rural ~~*C*~~communities for the purpose of: ~~*(3-15-02)*~~(____)

~~*a*~~**01. Improving the Local Economy**. (2-7-94)

~~*b*~~**02. Retaining or Creating Jobs**. (2-7-94)

~~*c*~~**03. Promoting the Community for Economic Development and Tourism**. (2-7-94)

~~*d*~~**04. Assisting Business Expansion and Diversification**. (2-7-94)

013. ELIGIBLE APPLICANTS.
~~*Active Certified Gem*~~ Idaho rural ~~*C*~~communities under ten thousand (10,000) persons and other ~~*Active Certified Gem*~~ Idaho rural ~~*C*~~communities at the discretion of the ~~*d*~~Director of the Department of Commerce and Labor are eligible to apply for ~~*GCI grants for*~~ IGGs up to a maximum of fifty thousand dollars ($50,000). ~~*GCI grants shall be made*~~ IGGs to ~~*cities/counties of active certified Gem Communities. The grants*~~ city and county governments may be administered by their designees as established by formally adopted resolutions. ~~*(3-15-02)*~~(____)

014. ELIGIBLE ACTIVITIES.
For a project to be eligible for ~~*GCI*~~ IGG funding the project must meet ~~*the following conditions:*~~ one (1) or more of the IGG program's primary objectives listed in Section 012 of these rules. ~~*(3-15-02)*~~(____)

~~***01.*** ***Project Concept****. The project concept must be included in the applicant's current Gem Community one year plan.* *(2-7-94)*~~

~~***02.*** ***Purpose Of Project****. The purpose of the project must be consistent with one (1) or more of the GCI program objectives listed in Section 012.* *(3-15-02)*~~

015. ELIGIBLE COSTS.

01. Eligible Costs. Eligible costs for the use of ~~*GCI*~~ IGG funds are limited to: ~~*(3-15-02)*~~(____)

a. Materials. (2-7-94)

b. Construction contracts. (2-7-94)

c. Architect and engineering services and legal and professional services required for project implementation. (3-15-02)

d. Equipment. (2-7-94)

e. Equipment installation. (2-7-94)

f. Advertising. (2-7-94)

g. Printing. (2-7-94)

h. Construction of infrastructure for economic expansion. (3-15-02)

i. Rehabilitation ~~*A*~~and development of public property to support business development. ~~*(3-15-02)*~~(____)

j. Acquisition of real estate for business development. (3-15-02)

k. Matching funds for other state, federal and foundation economic development grants. ~~*(3-15-02)*~~(____)

016. INELIGIBLE ACTIVITIES/COSTS.
~~*Gem Community Implementation Grant*~~ IGG funds shall not be used for: ~~*(3-15-02)*~~(____)

01. Payroll Costs. Payroll costs for city, county, development corporation or other community agencies. (2-7-94)

02. Real Property Acquisition. Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. (3-15-02)

03. Administrative Costs. Expenses related to administering ~~*Gem Community Implementation Grants*~~ IGGs will not be reimbursable to the grantee from ~~*GCI*~~ IGG funds. ~~*(3-15-02)*~~(____)

04. Political Activities. ~~*GCI*~~ IGG funds shall not be used for political purposes or to engage in lobbying or other partisan political activities. ~~*(3-15-02)*~~(____)

05. Religious Activities. ~~*GCI*~~ IGG funds shall not be used for the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. ~~*(3-15-02)*~~(____)

017. SELECTION.
The ~~*GCI grant*~~ IGG process is competitive on a quarterly cycle and is dependant upon grant fund availability. ~~*All Active Certified Gem Communities are eligible to apply for funding at any time depending upon grant fund availability. A two (2) step review process is used*~~ The following process will be used to select which eligible proposals will be funded: ~~*(3-15-02)*~~(____)

01. Review of Proposals. ~~*The Gem Community*~~ Department staff review~~s~~ proposals for completeness~~,~~ ~~*allowable costs*~~ and compliance with ~~*grant*~~ these rules and make~~s~~ recommendations for funding to the ~~*IDC*~~Department's Director. ~~*(2-7-94)*~~(____)

02. Grant Awards. The ~~*IDC*~~ Department's Director, in his sole discretion, makes all ~~*GCI grant*~~ IGG awards. The Director may make grant awards at any time the Director determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG Program. ~~*(3-15-02)*~~(____)

~~***03. Director Discretion.*** *The IDC Director may make grant awards at any time to take advantage of special opportunities.* *(3-15-02)*~~

018. -- 019. (RESERVED).

020. APPLICATION PROCESS.

01. Applications. Applications for ~~*Gem Community Implementation Grants*~~ IGGs may be submitted by eligible communities at any time. ~~*(3-15-02)*~~(____)

02. Application For Funding. Application for funding is made by submitting one (1) copy of the grant proposal in the required format to the ~~*Idaho*~~ Department~~ *of Commerce and Labor*~~. ~~*(2-7-94)*~~(____)

021. -- 029. (RESERVED).

030. PROPOSAL FORMAT.
~~*GCI*~~ IGG applications shall be submitted on eight and one-half by eleven inches (8 1/2" x 11") white paper. The text shall be typed, with numbered pages. The types of headings, required content and numbering systems ~~*are optional to the applicant*~~ shall conform to the latest revision of the IGG Handbook. ~~*The proposal should contain the following information and sections:*~~ ~~*(3-15-02)*~~(____)

~~***01. Cover Page****. The cover should include one (1) signature from each city council/mayor and county commission of the community. The designated grant administrator and a contact person should also be named on the cover page.* *(2-7-94)*~~

~~***02.*** ***Table Of Contents.*** *(2-7-94)*~~

~~***03.*** ***Project Description.*** *Include a brief narrative description of the project that contains:* *(2-7-94)*~~

~~***a.*** *Project need and benefits expected. Reference the project's purpose in the Community one (1) year plan.* *(2-7-94)*~~

~~***b.*** *Time line. Show anticipated start date, end date and projected times for completion of major components of the project.* *(2-7-94)*~~

~~***c.*** *The applicant shall include a description of the proposed administration of the project and how the accounting will be performed. If the lead community economic development organization or one city or county in a multi-city/county community is to be named grant administrator, a formally adopted resolution designating the administrator shall be included in the proposal.* *(2-7-94)*~~

~~***04.*** ***Project Budget.*** *Applicants must show a line item breakdown for the use of the GCI funds and the amount and use of matching funds. Applicants shall also include the following:* *(3-15-02)*~~

~~***a.*** *A narrative explaining donations used for match, and how they will contribute to the completion of the project.* *(2-7-94)*~~

~~***b.*** *Letters of commitment of matching funds. All sources of matching funds shall be documented by including letters of commitment from the donor.* *(2-7-94)*~~

~~***c.*** *Formally adopted resolutions from each city council and county commission of the certified community.* *(3-15-02)*~~

031. MATCHING FUNDS.
All ~~*GCI*~~ IGG grantees must provide a minimum of twenty percent (20%) matching funds of either cash or in-kind donations for the ~~*GCI*~~ total amount of IGG funds received. Matching funds can be comprised of any combination of cash and in-kind donations and must meet the following criteria: ~~*(3-15-02)*~~(____)

01. ~~***Match***~~ **Source**. Matching funds can be from private, local, state, federal, or foundation sources. ~~*(2-7-94)*~~(____)

02. Relation to Project. All matching funds must be related to the planning, implementation or operation of the project being funded. ~~*(2-7-94)*~~(____)

03. Documentation of Matching Funds. Matching funds must be documented by receipt, invoice, time cards, or by other written documentation signed by the donor. ~~*(2-7-94)*~~(____)

04. ~~***GCI***~~ **IGG Funds**. ~~*GCI*~~IGG funds may be used ~~*to*~~ as matching funds for other state, federal and foundation grant ~~*funds*~~programs. ~~*(3-15-02)*~~(____)

05. Administrative Expenses Used as Matching Funds. Up to two thousand five hundred dollars ($2,500) of the grantee's~~*'administrator's*~~ administrative expenses related to the project being funded may be used as matching funds for the grant. ~~*(3-15-02)*~~(____)

032. GRANT PAYMENT.
Payment of ~~*GCI grants*~~ IGGs will be made in the following manner: ~~*(3-15-02)*~~(____)

01. Payment of Funds. Grantees shall ~~*normally*~~ receive payment of ~~*GCI*~~ IGG funds on a cost reimbursement basis. Grant payment procedures will be established in the ~~*GCI Grant*~~ IGG Contract. To receive reimbursement, the grantee must submit receipts and matching funds documentation to the Department for the ~~*grant*~~ reimbursement amount being requested. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds ~~*is*~~ documentation have been provided. The grantee shall be responsible for any discrepancies in documentation. ~~*(3-15-02)*~~(____)

02. **Special Circumstances**. In special circumstances due to the small size of the community or the nature of the project, grantees may request receipt of ~~*GCI*~~ IGG funds on other than a cost reimbursement basis. The Department will review the requests and determine ~~*the*~~ in its sole discretion whether different payment procedures ~~*necessary*~~ are warranted to avoid hardship to the community. ~~*(3-15-02)*~~( )

033. REPORTING.
All ~~*GCI grant*~~ IGG recipients are required to submit the following two (2) reports: ~~*(3-15-02)*~~( )

01. **Status Report**. A status report is required with each request for payment. It should contain the following information: (3-15-02)

a. A short narrative outlining the project status, successes, and problems, ~~*etc.*~~ and ~~*(2-7-94)*~~( )

b. Press clippings, pictures and other information about the project as available. (2-7-94)

02. **Final Report**. All grantees shall submit a final report containing the following information: (2-7-94)

a. A narrative describing the success of the project. (2-7-94)

b. A description of the impact the project has had and will have on the community including long term benefits anticipated. (2-7-94)

c. A description of any special contributions or work provided on the project. (2-7-94)

d. Any other information, pictures or press clippings about the project that have not already been submitted~~*, i.e., pictures, press clippings, etc*~~. ~~*(2-7-94)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

035. CONFLICT OF INTEREST.
No official, officer, employee, family member or agent of the Department ~~*of Commerce and Labor,*~~ or of a grantee~~,~~ shall profit financially, directly or indirectly, from ~~*GCI*~~ IGG funds under their direction or control. ~~*(3-15-02)*~~( )

036. CREDIT STATEMENT.
All activities funded by the ~~*Idaho Gem Community Implementation Grant*~~ IGG ~~*p*~~Program shall credit the program. The following credit statement ~~*will*~~ shall be placed on all ~~*GCI*~~ IGG funded brochures, slide shows, videos, films, displays, advertising, press releases and other printed materials: "This publication made possible by an Idaho Gem Grant, Idaho Department of Commerce and Labor" or "paid, Idaho Gem Grant, Idaho Department of Commerce and Labor." ~~*(3-15-02)*~~( )

~~***01.*** ***Credit Statement****. "This publication made possible by a Gem Community Implementation Grant, Idaho Department of Commerce and Labor" or "paid, Gem Community Implementation Grant, Idaho Department of Commerce and Labor".* *(3-15-02)*~~

0~~*2*~~1. **Failure to Comply**. Failure to ~~*comply with*~~ credit~~*ing*~~ the ~~*GCI grant*~~ IGG ~~*p*~~Program ~~*could jeopardize payment of*~~ as required above may, at the Department's sole discretion, disqualify the grantee from receiving IGG funding for that portion of the project for which credit was not given. ~~*(3-15-02)*~~( )

0~~*3*~~2. **Other Credit**. Credit may also be given to other sources of assistance. (2-7-94)

037. -- 039. (RESERVED).

040. BID PROCESS FOR THE PURCHASE OF GOODS OR SERVICES OVER $25,000.
~~*GCI*~~ IGG grantees shall contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or

services over twenty-five thousand dollars ($25,000). Prior to reimbursement for such costs, the ~~*appropriate*~~ following information shall be submitted to the Department ~~*which documents the following*~~: ~~*(3-15-02)*~~(____)

01. Item or Service ~~*(To Be)*~~ Purchased. A detailed description of the item or service purchased or to be purchased. ~~*(2-7-94)*~~(____)

02. ~~*Written Record*~~Bid Verification. ~~*A w*~~Written ~~*record*~~ documentation of three (3) or more ~~*companies*~~ businesses or vendors contacted by IGG grantees for bids or quotes. The documentation must ~~*L*~~list the businesses or vendors contacted and indicate their response. The documentation must also ~~*I*~~include ~~*those*~~ a list of all businesses or vendors contacted whether or not a response was received. ~~*(2-7-94)*~~(____)

03. Reasons for Selection. Grantees ~~*reasoning*~~ justification for ~~*selecting the vendor chosen*~~ the business or vendor selected. ~~*(2-7-94)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

042. LOSS OF PROJECT ~~*LOSES*~~ VIABILITY.
It is the responsibility of the IGG grantee to give immediate written notification to the Department as soon as the grantee becomes aware that its project has lost viability. If a project loses its viability after selection for funding and prior to any expenditure of ~~*GCI*~~ IGG funds, the project ~~*may*~~ shall be terminated ~~*by mutual agreement of the grantee and the Department*~~ and the Department's IGG award shall be voided. ~~*The community retains its eligibility to apply for GCI funds.*~~ If a project loses its viability after the grantee expends IGG funds, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department may, in its sole discretion, agree to modify, restructure or amend the project. ~~*(3-15-02)*~~(____)

~~***01. Lose Of Viability****. If a project loses its viability after the grantee expends GCI funds, the grantee must notify the Department as soon as possible. Reasonable efforts may be made to modify, restructure or amend the project contract at the discretion of the Department.*~~ ~~*(3-15-02)*~~

~~***02. Termination Of Funding****. Funding for projects may be terminated by the Department at any time for gross misuse or abuse of funds. Upon receipt of a notice of termination the grantee will stop all expenditures of GCI funds and return all unspent GCI funds to the Department. The Department will make a fair and reasonable final payment to the grantee based on the work completed, allowable costs incurred and documentation provided.*~~ ~~*(3-15-02)*~~

043. TERMINATION OF FUNDING.
Funding for projects may be terminated by the Department at any time for the misuse of IGG funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred and the documentation provided by the grantee as required by these rules. (____)

04~~3~~4. -- 999. (RESERVED).

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 8, 2004 and April 29, 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 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 temporary rule more adequately addresses military discharges, requires more timely notices of employment and entrance into academies so officers are trained and certified within the statutorily allowed twelve months, adds continuing training requirements, eliminates some course attendance requirements for officers challenging the academy who have not been out of law enforcement over five years, and updates the patrol academy curriculum to accurately reflect what is being taught.

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

Protection of the public health, safety, or welfare.

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 due to the nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael N. Becar at (208) 884-7251.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 13th day of August, 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)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-0401

041. THE RECORDS SYSTEM.

01. Training File. The Idaho Peace Officer Standards and Training Council will maintain a training file on all Idaho law enforcement officers. Officer certifications granted and certified training schools attended by officers will be recorded in these files. (4-5-00)

02. Notification of Employment/Termination. It will be the responsibility of the law enforcement agency head to notify the Council of all presently employed officers every January and July. The names of all officers hired after submission of the original list ~~*shall*~~ must be submitted to the Council within ~~*thirty*~~ fifteen (~~*30*~~15) days of employment. The termination of an officer's employment ~~*shall*~~ must also be relayed to the Council within ~~*thirty*~~ fifteen (~~*30*~~15) days of such action on an appropriate form designated by the Council. ~~*(4-5-00)*~~(1-8-04)T

03. Training Record. A training record listing all certified courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's file. (4-5-00)

04. Other Law Enforcement Personnel. A file on other law enforcement personnel may be maintained. This file will contain records for other law enforcement persons who successfully complete POST-certified courses. (4-5-00)

05. Instructors. Names of certified instructors will be maintained. (4-5-00)

06. Instructors and Schools. A list of approved instructors and schools will be maintained. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

053. MILITARY RECORD.
A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service ~~*shall*~~ will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. ~~*(4-2-03)*~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

071. BASIC TRAINING ACADEMY.
Every peace and detention officer must begin the respective POST Basic Training Academy within six (6) months from the date of their appointment as a full-time officer. ~~*Each and e*~~Every peace, detention, juvenile detention, and juvenile probation officer must successfully complete the respective POST Basic Training Academy, including the field training portion, within twelve (12) months from the date of their appointment as a full-time officer. This time period includes probationary time. ~~*(3-20-04)*~~(1-8-04)T

01. Closed Campus. The POST Basic Training Academies will operate as a closed campus Monday through Thursday. The POST Council may consider an exemption to this requirement in the case of a documented severe financial hardship for the applicant where no other alternative exists and provided the applicant's agency head files a written request for review with the POST Council. A trainee granted a hardship exemption will be required to attend all mandatory classes, and must not be late to any class. Unauthorized lateness to or absence from any class will be grounds for revocation of the hardship exemption by the POST Executive Director. (3-20-04)

02. **Attendance**. Attendance will be required of each trainee at all classes in the Basic Training Academy. A trainee who is absent for more than one (1) day of the academy session must make up such course content. (3-20-04)

03. **Completion**. A trainee must successfully complete the Basic Training Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course must be repeated. (3-20-04)

04. **Field Training**. The field training portion must be completed to be eligible for certification. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

075. THE BASIC PATROL ACADEMY TRAINING CURRICULUM.

01. **Training Hours**. The amount of training for which certification may be granted in the Basic Patrol Academy ~~*shall*~~ will be a total of ~~*four hundred sixty-four (464)*~~ six hundred five and one half (605.5) hours, with ~~*four hundred twenty-four (424)*~~ forty (40) hours received in pre-academy computer-based training, five hundred twenty-five and one half (525.5) hours received at the training academy, and forty (40) hours received in field training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Patrol Academy. ~~*(3-15-02)*~~(4-29-04)T

02. **Requirements**. (7-1-93)

a. Successful completion of forty (40) hours of pre-academy computer-based instruction in the following minimum prescribed subject areas will be required:

Summary	**Hours**
Child Abuse	4
Domestic Violence	8
Emotionally Disturbed Persons	4
Report Writing	8
Sexual Assault Investigation	16
Total	**40**

(4-29-04)T

~~**a**~~**b.** Successful completion of ~~*four hundred twenty-four (424)*~~ five hundred twenty-five and one half (525.5) hours of instruction in the following minimum prescribed subject areas at the Basic Patrol Academy ~~*shall*~~ will be required:

Summary	**Hours**
~~*Human Relations*~~ Professional Orientation	~~*43*~~ 7
~~*Law*~~ Criminal Justice System	~~*53*~~ 12.5
~~*Investigations*~~ Police and the Law	~~*96*~~ 44

Summary	Hours
~~*Police Officer and Patrol Procedures*~~ Practical Police Skills/Health & Fitness	~~*157*~~ 256
~~*Health and Fitness*~~ Human Relations	~~*52*~~ 30
Investigations	60
Patrol Procedures	37
Traffic Enforcement	56
Administration/Examinations	23
~~***Sub-Total***~~	~~***424***~~
~~*Field Training Manual*~~	~~*40*~~
Total	~~***464***~~ **525.5**

~~*(3-15-02)*~~(4-29-04)T

~~***b***~~**c.** It is emphasized that the established basic patrol academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a peace officer, as required by the profession, is to be accomplished. (3-15-02)

~~***c***~~**d.** Successful completion of forty (40) hours of supervised field training in the appointing agency, or another agency if necessary, ~~*shall*~~ will be required. ~~*(3-15-02)*~~(1-8-04)T

03. Procedure. (7-1-93)

a. Trainees ~~*shall*~~ must be enrolled in the Basic Patrol Academy ~~*in sufficient time*~~ within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised field training during the twelve (12) month period following their appointment as a peace officer. ~~*(3-15-02)*~~(1-8-04)T

b. The Council ~~*shall*~~ will issue a certificate of graduation from the Basic Patrol Academy to each trainee who successfully completes the Basic Patrol Academy. ~~*(3-15-02)*~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

077. THE BASIC DETENTION ACADEMY TRAINING CURRICULUM.

01. Training Hours. The amount of training for which certification may be granted in the Basic Detention Academy ~~*shall*~~ will be a total of two hundred sixty (260) hours, with two hundred twenty (220) hours received at the training academy and forty (40) hours received in jail training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Detention Academy.~~*(3-15-02)*~~(1-8-04)T

02. Requirements. (3-15-02)

a. Successful completion of two hundred twenty (220) hours of instruction in the following minimum prescribed subject areas at the Basic Detention Academy ~~*shall*~~ will be required:

Summary	Hours
Jail Standards Procedures	11

Summary	Hours
Detention Legal Issues	34
Practical Skills	68
Jail Medical Issues	14
Human Relations	17
Detention Techniques	21
Incident Procedures	18
Emergency Procedures	13
Physical Wellness	13
Administration/Examinations	11
Sub-Total	**220**
Jail Training Manual	40
Total	**260**

~~(3-15-02)~~(1-8-04)T

b. It is emphasized that the established basic detention academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a detention officer, as required by the profession, is to be accomplished. (3-15-02)

c. Successful completion of forty (40) hours of supervised jail training in the appointing agency, or another agency if necessary, ~~*shall*~~ will be required. ~~(3-15-02)~~(1-8-04)T

03. Procedure. (3-15-02)

a. Trainees ~~*shall*~~ must be enrolled in the Basic Detention Academy ~~*in sufficient time*~~ within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised jail training during the twelve (12) month period following their appointment as a detention officer. ~~(3-15-02)~~(1-8-04)T

b. The Council ~~*shall*~~ will issue a certificate of graduation from the Basic Detention Academy to each trainee who successfully completes the Basic Detention Academy. ~~(3-15-02)~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

092. LAPSE OF PEACE OFFICER CERTIFICATION.
The certification of any peace officer ~~*shall*~~ will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as peace officers who remain in active law enforcement in Idaho ~~*shall*~~ will retain their POST certification for purposes of compliance with this rule. The person ~~*shall*~~ must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This ~~*shall*~~ includes administrative, jail, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified as peace officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho law and pass the POST Idaho law exam may petition the Executive Director for recertification. The Executive Director ~~*shall*~~ will have the discretion to grant or deny the petition or may refer the petition to the Council. ~~(4-2-03)~~(1-8-04)T

01. Three to Five Years. A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified ~~*shall*~~ must meet the following POST requirements: ~~*(4-2-03)*~~(1-8-04)T

a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)

b. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 062. (4-2-03)

02. Over Five Years. A peace officer who has been out of full-time law enforcement status for over five (5) years ~~*shall*~~ must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence ~~*shall*~~ must be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer ~~*shall*~~ must meet the following POST requirements: ~~*(4-2-03)*~~(1-8-04)T

a. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

b. Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 062. (4-2-03)

03. Over Eight Years. A peace officer who has been out of full-time law enforcement status for over eight (8) years ~~*shall*~~ must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement ~~*shall*~~ will be granted by the Council. ~~*(4-2-03)*~~(1-8-04)T

04. Exception. The provisions of Subsections 092.01 through 092.03 ~~*shall*~~ will not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. ~~*(4-2-03)*~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

098. CHALLENGING THE BASIC PATROL ACADEMY.
Any peace officer presently appointed by a duly constituted Idaho law enforcement agency who, ~~*has*~~ within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a peace officer or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years ~~*shall*~~ will be eligible for certification in the state of Idaho without attending the Basic Patrol Academy, provided the officer: ~~*(4-2-03)*~~(1-8-04)T

01. Submission of Challenge Packet. Submits a POST Certification Patrol Challenge Packet to POST Council, which ~~*shall*~~ must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; ~~*(4-2-03)*~~(1-8-04)T

02. Law Course Attendance. Attends an approved course of study in Idaho law and passes the POST Idaho law exam; (4-2-03)

~~***03. Attends and Passes POST Courses.*** *Attends and passes Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems;* *(4-2-03)*~~

0~~4~~3. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-2-03)

a. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

b. The POST Firearms Qualification Course; and (4-2-03)

c. The POST Physical Fitness Test Battery. (4-2-03)

0~~5~~4. Completes Probationary Period. Completes his probationary period as required by Subsection 097.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

131. GENERAL PROVISIONS.

01. Eligibility. To be eligible for the award of a Level I Reserve certificate or Level I Reserve Marine Deputy certificate, each applicant ~~*shall*~~ must be a reserve peace officer appointed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. ~~*(4-2-03)*~~(1-8-04)T

02. Minimum Standards. Each applicant ~~*shall*~~ must meet the minimum standards for employment as provided in Sections 050 through 063, with the exception of fitness which ~~*shall*~~ will be left to the discretion of the appointing agency. ~~*(4-2-03)*~~(1-8-04)T

03. Applications. All applications for award of the Level I Reserve certificate or Level I Reserve Marine Deputy certificate ~~*shall*~~must be completed on the prescribed form "Application for Certification" as provided by the POST Council. ~~*(4-2-03)*~~(1-8-04)T

04. Submission. The Application for Certification form ~~*shall*~~ must be submitted by the applicant to his agency head who ~~*shall*~~must review it for accuracy prior to signing it and forwarding it to the Council. Certificates ~~*shall*~~ must be issued to the agency head for award to the applicant. ~~*(4-2-03)*~~(1-8-04)T

05. Supervision. All certified reserve peace officers ~~*shall*~~ must be under supervision of a full-time peace officer. The term "supervision" is intended to limit the activities of a reserve peace officer. Each agency ~~*shall*~~ must draft its individual agency policy in reference to the supervision of its certified reserve peace officers, and that policy ~~*shall*~~ must be kept on file within each agency. ~~*(4-2-03)*~~(1-8-04)T

06. **Limitation**. A reserve peace officer's certification ~~*shall*~~ will be effective only during those periods when he is formally assigned by the appointing agency to perform the duties of a peace officer. ~~*(4-2-03)*~~(1-8-04)T

07. **Retaining Certification**. A certified reserve peace officer ~~*shall*~~ must satisfy the continuing training requirements of Sections 360 through 363 and work one hundred twenty (120) hours annually in a peace officer capacity to retain certification. Documentation of hours worked ~~*shall*~~ must be kept on file at the appointing agency. Any reserve peace officer not satisfying the continuing training requirements of Sections 360 through 363 or working less than one hundred twenty (120) hours annually ~~*shall*~~ must complete all requirements as set forth in Sections 130 through 131 and either Sections 132 through 135 or 146 through 149 to be recertified. ~~*(4-2-03)*~~(1-8-04)T

08. **Full-Time Peace Officer Status**. To be certified as a full-time peace officer, a reserve peace officer, upon appointment to full-time peace officer status, ~~*shall*~~ must comply with the requirements in Sections 093 through 097. ~~*(4-2-03)*~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

171. LAPSE OF DETENTION OFFICER CERTIFICATION.
The certification of any county detention officer ~~*shall*~~ will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as county detention officers who remain in active law enforcement in Idaho ~~*shall*~~ will retain their POST certification for purposes of compliance with this rule. The person ~~*shall*~~ must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This ~~*shall*~~ includes administrative, patrol, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified as county detention officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam may petition the Executive Director for recertification. The Executive Director ~~*shall*~~ will have the discretion to grant or deny the petition or may refer the petition to the Council.
~~*(4-2-03)*~~(1-8-04)T

01. **Three to Five Years**. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified ~~*shall*~~ must meet the following POST requirements: ~~*(4-2-03)*~~(1-8-04)T

a. Submit a POST Certification Detention Challenge Packet; (4-2-03)

b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 062. (7-1-99)

02. **Over Five Years**. A county detention officer who has been out of full-time law enforcement status for over five (5) years ~~*shall*~~ must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation

requiring law enforcement training, skill, and experience. This evidence ~~*shall*~~ must be submitted with a POST Certification Detention Challenge Packet. Upon receiving a waiver, the officer ~~*shall*~~ must meet the following POST requirements:

~~*(4-2-03)*~~(1-8-04)T

a. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

b. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; ~~*and*~~ ~~*(4-2-03)*~~(1-8-04)T

iii. The POST Physical Fitness Test Battery~~.~~; and ~~*(4-2-03)*~~(1-8-04)T

d. Satisfy the probationary period requirement of Section 062. (7-1-99)

03. Over Eight Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years ~~*shall*~~ must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement ~~*shall*~~ will be granted by the Council. ~~*(4-2-03)*~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

177. CHALLENGING THE BASIC DETENTION ACADEMY.
Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years ~~*shall*~~ will be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: ~~*(4-2-03)*~~(1-8-04)T

01. Submission of Challenge Packet. Submits a POST Certification Detention Challenge Packet to POST Council, which ~~*shall*~~ must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; ~~*(4-2-03)*~~(1-8-04)T

02. ~~***Attends and Passes***~~ **Detention Legal Issues Course Attendance**. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; ~~*(4-2-03)*~~(1-8-04)T

~~***03. Attends and Passes POST Certified Courses****. Attends and passes Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems;*~~ ~~*(4-2-03)*~~

0~~4~~3. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-2-03)

a. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)

b. The POST Firearms Qualification Course; and (4-2-03)

c. The POST Physical Fitness Test Battery. (4-2-03)

0~~5~~4. **Completes Probationary Period**. Completes his probationary period as required by Subsection 176.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

336. -- ~~999~~359. (RESERVED).

360. MINIMUM STANDARDS FOR CONTINUING TRAINING.

361. REQUIREMENTS.
To retain certification, from and after January 1, 2004, every peace officer and county detention officer appointed by an agency must satisfactorily complete forty (40) hours of continuing training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. The continuing training completed does not have to be POST-certified training. (1-8-04)T

362. DOCUMENTATION.

01. **Submission of Written Certification**. In January of each year, the law enforcement agency head must submit written certification to the Council of the number of hours of continuing training each officer within his agency has completed during the previous calendar year. (1-8-04)T

02. **No Credit on POST Training Record**. The Council will accept written certification from the agency head as proof that an officer has satisfactorily completed the required forty (40) hours of continuing training every two (2) calendar years. However, no officer will be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 311 of these rules. (1-8-04)T

363. RECORDS.

01. **Training Course**. A file on each continuing training course completed must be maintained by the agency and must be readily available to the POST Council. The file must include: (1-8-04)T

a. The name of the course provider; (1-8-04)T

b. The name and resume of the course instructor; (1-8-04)T

c. The course learning objectives; (1-8-04)T

d. The course schedule listing the number of instructional hours; (1-8-04)T

e. The number of continuing training hours awarded; (1-8-04)T

f. The attendance policy, attendance rosters, and the methodology for ascertaining and validating trainee attendance and participation; and (1-8-04)T

g. The names of the trainees completing the course and the date they completed the course. (1-8-04)T

02. **College Course**. An officer fulfilling the continuing training requirement by successfully completing a college course must provide a transcript from the college to the appointing agency. The transcript must be maintained by the agency and must be readily available to the POST Council. (1-8-04)T

364. -- 999. (RESERVED).

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 26, 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 Sections 36-103, 36-104(b) and 36-412, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

To clarify 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.

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

The temporary rule confers a benefit to hunter education students and to the hunter education program.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to continue the program without interruption, and the lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ron Fritz (208) 287-2884.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0102-0401

100. HUNTER EDUCATION.

01. Mandatory Hunter Education Program. All students being certified under this program must have successfully completed at least ten (10) hours of instruction in firearms safety, wildlife management, wildlife law, hunter ethics, first aid/survival, plus practical experience in the handling and shooting of firearms. This instruction may be completed through classroom study, home study, an on-line computer course, or other approved methods. The Department of Fish and Game shall manage the Hunter Education Program pursuant to the Idaho Hunter Education Policy and Procedure Manual. ~~*(7-1-93)*~~(1-26-04)T

02. Fees. A fee as established by Section 36-412(c), Idaho Code, shall be charged each student enrolling in the Hunter Education Program. (3-20-04)

03. Parent to Attend Live Fire Exercise With Student. For students under the age of twelve (12), a parent, legal guardian or other adult designated by the parent or legal guardian shall attend the Hunter Education Live Fire Exercise with the student. Preferably, the adult attending the live fire exercise should be the same adult who will accompany the student into the field while hunting. This requirement is mandatory for successful completion of the Hunter Education Course. (3-20-04)

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 26, 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(s) 36-104(b), 36-301, and 36-401 through -412, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

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. Set the nonresident deer and elk tag quotas.

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

The temporary rule confers a benefit to license buyers and hunters, and allows license sales to continue uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for license sales to continue uninterrupted, and the need to publish the Season Proclamation Brochures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Craig Wiedmeier (208) 287-2804.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

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

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 ~~*eight*~~ four hundred (12,~~*8*~~4~~00~~) regular or Clearwater deer tags; ~~*(7-1-99)*~~(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)

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

d. Junior mentored tag holders. (3-20-04)

03. Refunds. The fee for any nonresident license (as defined in I.C. 36-202(z)) shall not be refunded for any reason except as follows. (7-1-98)

a. Hunting license and general season deer and elk tag refunds due to death, illness/injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee and controlled hunt deer and elk tag fees may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar ($50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. ~~*(7-1-98)*~~(3-26-04)T

b. General season and controlled hunt deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season and controlled hunt deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded
Before April 1	75%
in April through June	50%
in July and August	25%
September through December	0%

~~(7-1-98)~~(3-26-04)T

c. Department Error. The department determines that a department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale of Unsold Nonresident Deer and Elk Tags to Residents. Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

05. S.E. Idaho License/Tag Application and Drawing. (3-20-04)

a. Nonresidents must submit application to the Idaho Department of Fish and Game headquarters license section to be eligible to receive an Idaho S.E. deer tag. The application period will be for the two (2) consecutive months from December 1 through January 31, and received by the license section no later than February 5 for the current year's license. The Idaho Department of Fish and Game is not responsible for lost or late applications. (3-20-04)

b. Applications must be submitted on a department-approved form. (3-20-04)

c. Only those eligible to purchase an Idaho hunting license at the time of application are eligible to apply for the S.E. deer tag. (3-20-04)

d. A nonrefundable application fee of six dollars and fifty cents ($6.50) must be submitted with the application. (3-20-04)

e. At the time of application, the applicant must submit the nonrefundable application fee, the hunting license fees (if applicable), and the fees for the S.E. deer tag. Those successful in the drawing will receive the appropriate hunting license (if applicable) and the S.E. deer tag. Those who are unsuccessful will receive a refund of the license fee (if applicable) and the S.E. deer tag fees. (3-20-04)

f. Group applications may be submitted. A group application may consist of up to four (4) individuals. All required information must be submitted in the same envelope to be considered as a group application. If a group application is selected in the random drawing, then each applicant will receive a hunting license (if applicable) and a S.E. deer tag. (3-20-04)

g. Applications received after the deadline will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded. (3-20-04)

h. Applications with insufficient fees will be processed through the drawing but will be ineligible to

draw. The appropriate license and tag fees will be refunded (if applicable). (3-20-04)

i. Computer drawing: To ensure fairness to all applicants, the drawing will be conducted using the existing department controlled hunt drawing processes. A random computer selection will determine successful applicants. If the applicant is successful, the license (if applicable) and deer tag will be issued and mailed to the customer within fifteen (15) days of the drawing date. License (if applicable) and tag fees will be refunded to unsuccessful applicants in the form of a state warrant. All refunds will be issued in the name of the applicant, regardless of who submitted the original payment for the application. (3-20-04)

j. Those applying for the S.E. deer tag will not affect their ability to apply for controlled hunts. (3-20-04)

k. Those unsuccessful in drawing a S.E. deer tag will be placed on a waiting list randomly in case the department receives returned unused tags for refunds or controlled hunt exchanges. These tags will be sold to the individuals on the list in order of standing on the waiting list. (3-20-04)

l. All other existing refund rules apply to those who have successfully drawn and have been issued the S.E. Idaho deer tag. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

602. SPECIAL OPERATION IRAQI FREEDOM REFUND AND RAIN CHECK.

01. 200~~3~~4 Special Refund and Rain Check Rule. This special refund and rain check rule applies only to the 200~~3~~4 hunting season. Because of military deployment to Operation Iraqi Freedom, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. ~~*(3-20-04)*~~(3-26-04)T

02. 200~~4~~5 Special Refund and Rain Check Eligibility. Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment for Operation Iraqi Freedom will be eligible for a refund or rain check for license and tags for the 200~~4~~5 hunting season as outlined in this rule. ~~*(3-20-04)*~~(3-26-04)T

03. General Season Tag. Holders of a general season tag for deer or elk may request: (3-20-04)

a. A refund of the hunting license and tag fee; (3-20-04)

b. A rain check for a hunting license and same tag for the 200~~4~~5 hunting season; or ~~*(3-20-04)*~~(3-26-04)T

c. An exchange in 200~~3~~4 for a tag in another zone or area so long as tags are available in that area or zone. ~~*(3-20-04)*~~(3-26-04)T

04. Controlled Hunt Permit and Tag. Holders of a controlled hunt permit and tag for deer, elk, or antelope may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and tag fee; (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and tag for the same controlled hunt in the 200~~4~~5 hunting season; or ~~*(3-20-04)*~~(3-26-04)T

c. An exchange in 200~~3~~4 for a hunting license and a general season tag in another zone or area so long as tags are available in that area or zone. ~~*(3-20-04)*~~(3-26-04)T

05. Nonresident Bear or Mountain Lion Tags. Holders of nonresident bear or mountain lion tags

may request: (3-20-04)

a. A refund of the hunting license and tag fee; or (3-20-04)

b. A rain check for a hunting license and tag for the 200~~4~~5 hunting season. ~~(3-20-04)~~(3-26-04)T

06. Moose, Bighorn Sheep, or Mountain Goat Controlled Hunt Permits. Holders of moose, bighorn sheep, or mountain goat controlled hunt permits may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and controlled hunting tag fee; or (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and controlled hunt tag for the 200~~4~~5 hunting season. ~~(3-20-04)~~(3-26-04)T

07. Ineligible to Request Tag or Permit Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag or permit fee for that species will not be refunded or eligible for a rain check for the 200~~4~~5 season. ~~(3-20-04)~~(3-26-04)T

08. Ineligible to Request License Fee Refund or Rain Check. If the person hunts for any species during the 200~~3~~4 season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the 200~~4~~5 season. ~~(3-20-04)~~(3-26-04)T

09. Rain Check Requests Must be for Same Species. All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the 200~~4~~5 next season. ~~(3-20-04)~~(3-26-04)T

10. Refunds Will be for the Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. (3-20-04)

11. Use of Department-Approved Form for Rain Check or Refund Request. Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website www2.state.id.us/fishgame) by January 1, 200~~4~~5, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in Operation Iraqi Freedom. Those requests received after this date will not be eligible for the special refund or rain check. ~~(3-20-04)~~(3-26-04)T

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 15, 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 Sections 36-104(b) and 36-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 classification lists have 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.

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

The temporary rule confers a benefit by updating the wildlife classification lists.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to update the classification lists, and the lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Chuck Harris (208) 287-4747.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut - P.O. Box 25
Boise, Idaho 83707
(208) 334-3715 / Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0106-0401

000. LEGAL AUTHORITY.
The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-201, Idaho Code, to adopt rules concerning the taking of wildlife species and the classification of all wildlife in the state of Idaho. (3-15-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.06.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife". (3-15-04)T

02. Scope. These rules establish the classification and protection of wildlife. (3-15-04)T

002. WRITTEN INTERPRETATIONS.
This agency has no written interpretations of these rules. (3-15-04)T

003. ADMINISTRATIVE APPEAL.
All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission," and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (3-15-04)T

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into this rule. (3-15-04)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho, and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is P.O. Box 25, Boise, Idaho 83707. (3-15-04)T

00~~0~~6. -- 099. (RESERVED).

100. CLASSIFICATION OF WILDLIFE.

01. Big Game Animals. (7-1-93)

a. Black bear - *Ursus americanus*. (7-1-93)

b. California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)

c. Elk - *Cervus elaphus*. (7-1-93)

d. Gray wolf - *Canis lupus* (3-15-04)T

~~d~~e. Moose - *Alces alces*. (7-1-93)

f. Mountain goat - *Oreamnos americanus*. (7-1-93)

g. Mountain lion - ~~*Felis*~~ *Puma concolor.* ~~(7-1-93)~~(3-15-04)T

h. Mule deer - *Odocoileus hemionus*. (7-1-93)

i. Pronghorn antelope - *Antilocapra americana*. (7-1-93)

j. Rocky Mountain bighorn sheep - *Ovis canadensis canadensis*. (7-1-93)

k. White-tailed deer - *Odocoileus virginianus*. (7-1-93)

02. Upland Game Animals. (7-1-93)

a. ~~*Nuttall's*~~ Mountain cottontail - *Sylvilagus nuttallii*. ~~*(7-1-93)*~~(3-15-04)T

b. Pygmy rabbit - *Brachylagus idahoensis*. (7-1-93)

c. Snowshoe hare - *Lepus americanus.* (7-1-93)

03. **Game Birds**. Game birds includes both upland game birds and migratory game birds. (7-1-93)

a. Upland Game Birds. (7-1-93)

i. Pheasants: Chinese or ring-necked pheasant *Phasianus colchicus*~~,~~; Mongolian pheasant~~,~~; mutant pheasant~~,~~; Japanese green pheasant~~,~~; or any hybrids thereof-*Phasianus spp*. ~~*(7-1-93)*~~(3-15-04)T

ii. Partridge: gray (Hungarian) partridge, *Perdix perdix*; chukar, *Alectoris chukar*; and ~~*French r*~~Red-legged partridge, *Alectoris rufa*. ~~*(7-1-93)*~~(3-15-04)T

iii. Quail: northern bobwhite, *Colinus virginianus*; California quail, *Callipepla californica*; mountain quail, *Oreortyx pictus*; and Gambel's quail, *Callipepla gambelii*. (7-1-93)

iv. Grouse: Blue grouse, *Dendragapus obscurus*; ruffed grouse, *Bonasa umbellus*; spruce grouse, ~~*Dendragapus*~~ *Falcipennis canadensis*; Greater sage grouse, *Centrocercus urophasianus*; and Columbian sharp-tailed grouse, *Tympanuchus phasianellus columbianus*. ~~*(7-1-93)*~~(3-15-04)T

v. Wild turkey: Rio Grande, *Meleagris gallopavo intermedia*~~,~~; *Merriam's, M. g. merriami*~~,~~; and Eastern, *M. g. silvestris*. ~~*(7-1-93)*~~(3-15-04)T

b. Migratory Game Birds: (7-1-93)

i. ~~*Coot:*~~ American coot, *Fulica americana*. ~~*(7-1-93)*~~(3-15-04)T

ii. ~~*Dove: m*~~Mourning dove, *Zenaida macroura*. ~~*(7-1-93)*~~(3-15-04)T

iii. Ducks: American black duck, Anas rubripes; bufflehead, *Bucephala albeola*; canvasback, *Aythya valisineria*; gadwall, *Anas strepera*; Barrow's goldeneye, *Bucephala islandica*; common goldeneye, *Bucephala clangula*; harlequin duck, *Histrionicus histrionicus*; mallard, *Anas platyrhynchos*; common merganser, *Mergus merganser*; hooded merganser, *Lophodytes cucullatus*; red-breasted merganser, *Mergus serrator*; ~~*oldsquaw*~~ long-tailed duck, *Clangula hyemalis*; northern pintail, *Anas acuta*; redhead, *Aythya americana*; ring-necked duck, *Aythya collaris*; ruddy duck, *Oxyura jamaicensis*; greater scaup, *Aythya marila*; lesser scaup, *Aythya affinis*; surf scoter, *Melanitta perspicillata*; white-winged scoter, *Melanitta fusca*; northern shoveler, *Anas clypeata*; blue-winged teal, *Anas discors*; cinnamon teal, *Anas cyanoptera*; green-winged teal, *Anas crecca*; American wigeon, *Anas americana*; ~~*European*~~ Eurasian wigeon, *Anas penelope*; and wood duck, *Aix sponsa*. ~~*(7-1-93)*~~(3-15-04)T

~~*iv. Brant: black brant, Branta bernicla.*~~ ~~*(7-1-93)*~~

iv. Geese: Brant, *Branta bernicla*; Canada goose, *Branta canadensis*; emperor goose, *Chen canagica*; Ross's goose, *Chen rossii*; snow goose, *Chen caerulescens*; and greater white-fronted goose, *Anser albifrons*. ~~*(7-1-93)*~~(3-15-04)T

v~~*i*~~. Swans: Trumpeter swan, ~~*Olar*~~ *Cygnus buccinator*; and Tundra swan, ~~*Olar*~~ *Cygnus columbianus*. ~~*(7-1-93)*~~(3-15-04)T

vi~~*i*~~. ~~*Snipe: Common, Capella*~~ Wilson's snipe - ~~*g*~~*Gallinago delicata*. ~~*(7-1-93)*~~(3-15-04)T

vii~~*i*~~. Greater ~~*s*~~Sandhill ~~*c*~~Crane: *Grus canadensis*. ~~*(7-1-93)*~~(3-15-04)T

c. American Crow - *Corvus brachyrhynchos.* (3-15-04)T

04. **Game Fish**. Game fish includes the following fish, bullfrog and crayfish: (2-23-94)

a. American shad - *Alosa sapidissim*. (7-1-93)

~~***b.***~~ ~~*American smelt - Osmerus mordax.*~~ ~~*(7-1-93)*~~

~~***c.***~~ ~~*Arctic char, blueback trout - Salvelinus alpinus.*~~ ~~*(2-23-94)*~~

~~***d***~~**b.** Arctic grayling - *Thymallus arcticus*. (7-1-93)

~~***e***~~**c.** Atlantic salmon - *Salmo salar.* (7-1-93)

d. Bear Lake cutthroat trout - *Oncorhynchus clarki sp.* (3-15-04)T

~~***f***~~**e.** Bear Lake whitefish - *Prosopium abyssicola*. (7-1-93)

~~***g***~~**f.** Black bullhead - ~~*Ictalurus*~~ *Ameirus melas*. ~~*(7-1-93)*~~(3-15-04)T

~~***h***~~**g.** Black crappie - *Pomoxis nigromaculatus*. (7-1-93)

~~***i***~~**h.** Blue ~~*C*~~catfish - *Ictalurus furcatus*. ~~*(7-1-93)*~~(3-15-04)T

i. Blueback trout - Salvelinus alpinus oquassa. (3-15-04)T

j. Bluegill - *Lepomis macrochirus*. (7-1-93)

k. Bluegill/Pumpkinseed - *L. macrochirus x L. gibbosus* hybrid. (3-15-04)T

~~***k***~~**l.** Bonneville cisco - *Prosopium gemmiferum*. (7-1-93)

m. Bonneville cutthroat trout - *Oncorhynchus clarki utah.* (3-15-04)T

~~***l***~~**n.** Bonneville whitefish - *Prosopium spilonotus*. (7-1-93)

~~***m***~~**o.** Brook trout - *Salvelinus fontinalis*. (7-1-93)

~~***n***~~**p.** Brown bullhead - ~~*Ictalurus*~~ *Ameirus nebulosus*. ~~*(7-1-93)*~~(3-15-04)T

~~***o***~~**q.** Brown trout - *Salmo trutta*. (7-1-93)

~~***p***~~**r.** Bull trout - *Salvelinus confluentus*. (7-1-93)

~~***q***~~**s.** Bullfrog - *Rana catesbeiana*. (7-1-93)

~~***r***~~**t.** Burbot, Ling - *Lota lota*. (7-1-93)

u. California golden trout - *Oncorhynchus mykiss aguabonita.* (3-15-04)T

~~***s***~~**v.** Channel catfish - *Ictalurus punctatus*. (7-1-93)

~~***t***~~**w.** Chinook salmon - *Oncorhynchus tshawytscha*. (7-1-93)

~~***u***~~**x.** Coho salmon - *Oncorhynchus kisutch*. (7-1-93)

~~***v***~~**y.** Crayfish - *Pacifastacus sp*. (3 species). (2-23-94)

~~*w*~~**z.**	Cutthroat trout - *Oncorhynchus clarki*.	(7-1-93)
aa.	Finespotted cutthroat trout (Snake River) - *Oncorhynchus clarki sp.*	(3-15-04)T
~~*x*~~**bb.**	Flathead catfish - *Pylodictis olivaris*.	(7-1-93)
~~*y.*~~	~~*Golden trout - Oncorhynchus aquabonita.*~~	~~*(7-1-93)*~~
~~*z*~~**cc.**	Green sunfish - *Lepomis cyanellus*.	(7-1-93)
dd.	Kokanee - *Oncorhynchus nerka kennerlyi.*	(3-15-04)T
ee.	Lahotan cutthroat trout - *Oncorhynchus clarki henshawi.*	(3-15-04)T
~~*aa*~~**ff.**	Lake trout, Mackinaw - *Salvelinus namaycush*.	(7-1-93)
~~*bb*~~**gg.**	Lake whitefish - *Coregonus clupeaformis*.	(7-1-93)
~~*cc*~~**hh.**	Largemouth bass - *Micropterus salmoides*.	(7-1-93)
~~*dd*~~**ii.**	Mountain whitefish - *Prosopium williamsoni*.	(7-1-93)
~~*ee*~~**jj.**	Northern pike - *Esox lucius*.	(7-1-93)
~~*ff*~~**kk.**	Pumpkinseed - *Lepomis gibbosus*.	(7-1-93)
~~*gg*~~**ll.**	Pygmy whitefish - *Prosopium coulteri*.	(7-1-93)
~~*hh*~~**mm.**	Rainbow trout - *Oncorhynchus mykiss*.	(7-1-93)
nn.	Redband trout - *Oncorhynchus mykiss gairdneri.*	(3-15-04)T
~~*ii*~~**oo.**	Rainbow/cutthroat trout - *O. mykiss* x *O. clarki* hybrid.	(2-23-94)
~~*jj*~~**pp.**	Sauger - *Stizostedion canadense*.	(7-1-93)
~~*kk*~~**qq.**	Smallmouth bass - *Micropterus dolomieu*~~*i*~~.	~~*(7-1-93)*~~(3-15-04)T
~~*ll*~~**rr.**	Splake - *S. namaycush* x S. *fontinalis* hybrid.	(2-23-94)
~~*mm*~~**ss.**	Sockeye salmon~~*, kokanee*~~ - *Oncorhynchus nerka*.	~~*(7-1-93)*~~(3-15-04)T
~~*nn*~~**tt.**	Steelhead trout - *Oncorhynchus mykiss gairdneri*.	~~*(7-1-93)*~~(3-15-04)T
~~*oo*~~**uu.**	Tiger muskie - *Esox lucius* x *Esox masquinongy* hybrid.	(7-1-93)
~~*pp*~~**vv.**	Walleye - *Stizostedion vitreum*.	(7-1-93)
~~*qq*~~**ww.**	Warmouth - *Lepomis gulosus*.	(7-1-93)
xx.	Westslope cutthroat trout - *Oncorhynchus clarki lewisi.*	(3-15-04)T
~~*rr*~~**yy.**	White crappie - *Pomoxis annularis*.	(7-1-93)
~~*ss*~~**zz.**	White sturgeon - *Acipenser transmontanus*.	(7-1-93)
aaa.	Yellow bullhead - *Ameiurus natalis.*	(3-15-04)T

~~tt~~**bbb**. Yellow perch - *Perca flavescens*. (7-1-93)

ccc. Yellowstone cutthroat trout - *Oncorhynchus clarki bouvieri.* (3-15-04)T

~~**05.** ***Migratory Birds.*** *Common American crow - Corvus brachyrhynchos.* (7-1-93)~~

0~~6~~5. **Furbearing Animals**. (7-1-93)

a. American ~~*B*~~badger - *Taxidea taxus*. ~~(7-1-93)~~(3-15-04)T

~~*f*~~**b**. American ~~*M*~~marten - *Martes americana*. ~~(7-1-93)~~(3-15-04)T

~~*g*~~**c**. American ~~*M*~~mink - *Mustela vison*. ~~(7-1-93)~~(3-15-04)T

~~*b*~~**d**. Beaver - *Castor canadensis*. (7-1-93)

~~*e*~~**e**. Bobcat - ~~*Felis*~~ *Lynx rufus*. ~~(7-1-93)~~(3-15-04)T

~~*e*~~**f**. Canada ~~*L*~~lynx - ~~*Felis*~~ *Lynx canadensis*. ~~(7-1-93)~~(3-15-04)T

~~*h*~~**g**. Common ~~*M*~~muskrat - *Ondatra zibethicus*. ~~(7-1-93)~~(3-15-04)T

~~*k*~~**h**. Common ~~*R*~~raccoon - *Procyon lotor.* ~~(7-1-93)~~(3-15-04)T

~~*d*~~**i**. Fisher - *Martes pennanti*. (7-1-93)

j. Northern river ~~*O*~~otter - ~~*Lutra*~~ *Lontra canadensis*. ~~(7-1-93)~~(3-15-04)T

~~*l*~~**k**. Red fox - *Vulpes vulpes*-includes all color phases found in Idaho. (7-1-93)

101. -- 149. (RESERVED).

150. ~~*SPECIES OF SPECIAL CONCERN,*~~ THREATENED OR ENDANGERED SPECIES.

01. Definitions. (7-1-93)

a. Endangered~~ *Species*~~: Any native species in danger of extinction throughout all or a significant portion of its Idaho range. ~~(7-1-93)~~(3-15-04)T

b. ~~*Peripheral Species: A species of special concern which has populations in Idaho that are on the edge of a breeding range that falls largely outside Idaho.*~~ Threatened Species: Any native species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. ~~(7-1-93)~~(3-15-04)T

~~**c.** *Priority Species: A species of special concern for which Idaho presently constitutes or formerly constituted a significant portion of its range.* (7-1-93)~~

~~**d.** *Species: includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.* (7-1-93)~~

~~**e.** *Species of Special Concern: Native Idaho species which are either low in numbers, limited in distribution, or have suffered significant habitat losses.* (7-1-93)~~

~~**f.** *Threatened Species: Any species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range.* (7-1-93)~~

~~**g.** *Undetermined Status Species: A species of special concern that may be rare in Idaho, but for which there is little information on population status, distribution and/or habitat requirements.* (7-1-93)~~

02. Endangered Species. (7-1-93)

a. ~~*Bald eagle - Haliaeetus leucocephalus.*~~ Burbot, Ling - *Lota lota.* ~~(7-1-93)~~(3-15-04)T

~~**b.** *Caribou - Rangifer tarandus.* (7-1-93)~~

~~**c.** *Chinook salmon, fall - Oncorhynchus tschawytscha.* (7-1-93)~~

~~**d.** *Cutthroat trout, Bonneville - Oncorhynchus clarki utah.* (7-1-93)~~

~~**e.** *Gray wolf - Canis lupus.* (7-1-93)~~

~~**f.**~~**b.** Pacific lamprey - *Lampetra tridentata*. (7-1-93)

~~**g.** *Peregrine falcon - Falco peregrinus.* (7-1-93)~~

~~**h.**~~**c.** Sockeye salmon - *Oncorhynchus nerka*. (7-1-93)

~~**i.**~~**d.** White sturgeon (Kootenai River population) - *Acipenser transmontanus*. (7-1-93)

~~**b.**~~**e.** Woodland ~~C~~caribou - *Rangifer tarandus caribou*. ~~(7-1-93)~~(3-15-04)T

~~**j.** *Whooping crane - Grus americana.* (7-1-93)~~

03. Threatened Species. (7-1-93)

a. ~~*Burbot, Ling - Lota lota.*~~ Bald eagle - *Haliaeetus leucocephalus.* ~~(7-1-93)~~(3-15-04)T

~~**g.**~~**b.** Bull trout - *Salvelinus confluentus*. (7-1-93)

c. Canada lynx - *Lynx canadensis.* (3-15-04)T

~~**b.**~~**d.** Chinook salmon, spring, ~~*and*~~ summer, and fall - *Oncorhynchus tshawytscha*. ~~(7-1-93)~~(3-15-04)T

~~**c.**~~**e.** Grizzly bear - *Ursus arctos horribilis*. ~~(7-1-93)~~(3-15-04)T

f. Northern Idaho ground squirrel - *Spermophilus brunneus brunneus.* (3-15-04)T

g. Peregrine falcon - *Falco peregrinus.* (3-15-04)T

h. Steelhead trout (Snake River) - *Oncorhynchus mykiss gairdneri* (3-15-04)T

~~**04. *Priority Species.*** (7-1-93)~~

~~**a.** *American white pelican - Pelecanus erythrorhynchos.* (7-1-93)~~

~~**b.** *Bear Lake sculpin - Cottus extensus.* (7-1-93)~~

~~**c.** *Bear Lake whitefish - Prosopium abyssicola.* (7-1-93)~~

~~**d.** *Bonneville cisco - Prosopium gemmiferum.* (7-1-93)~~

~~**e.** *Bonneville whitefish - Prosopium spilonotus.* (7-1-93)~~

~~**f.** *Boreal owl - Aegolius funereus.* (7-1-93)~~

~~*g.* *Bull trout - Salvelinus confluentus.* *(7-1-93)*~~

~~*h.* *Common loon - Gavia immer.* *(7-1-93)*~~

~~*i.* *Coeur d'Alene salamander - Plethodon vandykei idahoensis.* *(7-1-93)*~~

~~*j.* *Cutthroat trout, Bear Lake - Oncorhynchus clarki ssp.* *7-1-93)*~~

~~*k.* *Cutthroat trout, Snake River fine-spotted - Oncorhynchus clarki ssp.* *(7-1-93)*~~

~~*l.* *Cutthroat trout, Westslope - Oncorhynchus clarki lewisi.* *(7-1-93)*~~

~~*m.* *Cutthroat trout, Yellowstone - Oncorhynchus clarki bouvieri.* *(7-1-93)*~~

~~*n.* *Ferruginous hawk - Buteo regalis.* *(7-1-93)*~~

~~*o.* *Fisher - Martes pennanti.* *(7-1-93)*~~

~~*p.* *Harlequin duck - Histrionicus histrionicus.* *(7-1-93)*~~

~~*q.* *Idaho ground squirrel - Spermophilus brunneus.* *(7-1-93)*~~

~~*r.* *Mountain quail - Oreortyx pictus.* *(7-1-93)*~~

~~*s.* *Redband trout - Oncorhynchus mykiss ssp.* *(7-1-93)*~~

~~*t.* *Shoshone sculpin - Cottus greenei.* *(7-1-93)*~~

~~*u.* *Steelhead trout - Oncorhynchus mykiss.* *(7-1-93)*~~

~~*v.* *Trumpeter swan - Cygnus buccinator.* *(7-1-93)*~~

~~*w.* *Upland sandpiper - Bartramia longicaudus.* *(7-1-93)*~~

~~*x.* *White sturgeon (Snake/Salmon River populations) - Acipenser transmontanus.* *(7-1-93)*~~

~~*y.* *Wolverine - Gulo gulo.* *(7-1-93)*~~

~~*z.* *Wood River sculpin - Cottus leiopomus.* *(7-1-93)*~~

~~*05.* ***Peripheral Species.*** *(7-1-93)*~~

~~*a.* *Cliff chipmunk - Tamias dorsalis.* *(7-1-93)*~~

~~*b.* *Coast mole - Scapanus orarius.* *(7-1-93)*~~

~~*c.* *Dark kangaroo mouse - Microdipodops megacephalus.* *(7-1-93)*~~

~~*d.* *Great egret - Casmerodius albus.* *(7-1-93)*~~

~~*e.* *Kit fox - Vulpes macrotis.* *(7-1-93)*~~

~~*f.* *Little pocket mouse - Perognathus longimembris.* *(7-1-93)*~~

~~*g.* *Lynx - Felis lynx.* *(7-1-93)*~~

~~*h.* *Merlin - Falco columbarius.* *(7-1-93)*~~

~~**i.** *Mojave black-collared lizard - Crotaphytus bicinctores.* (7-1-93)~~

~~**j.** *Northern bog lemming - Synaptomys borealis.* (7-1-93)~~

~~**k.** *Rock squirrel - Spermophilus variegatus.* (7-1-93)~~

~~**l.** *Uinta chipmunk - Tamias umbrinus.* (7-1-93)~~

~~**m.** *Western ground snake - Sonora semiannulata.* (7-1-93)~~

~~**n.** *Wood frog - Rana sylvatica.* (7-1-93)~~

~~**n.** *Yellow-billed cuckoo - Coccyzus americanus.* (7-1-93)~~

~~**06.** **Undetermined Status Species.** (7-1-93)~~

~~**a.** *Barred owl - Strix varia.* (7-1-93)~~

~~**b.** *Black-billed cuckoo - Coccyzus erythropthalmus.* (7-1-93)~~

~~**c.** *California myotis - Myotis californicus.* (7-1-93)~~

~~**d.** *Flammulated owl - Otus flammeolus.* (7-1-93)~~

~~**e.** *Fringed myotis - Myotis thysanodes.* (7-1-93)~~

~~**f.** *Great gray owl - Strix nebulosa.* (7-1-93)~~

~~**g.** *Leatherside chub - Gila copei.* (7-1-93)~~

~~**h.** *Northern alligator lizard - Elgaria coerulea.* (7-1-93)~~

~~**i.** *Northern flying squirrel - Glaucomys sabrinus.* (7-1-93)~~

~~**j.** *Northern pygmy-owl - Glaucidium gnoma.* (7-1-93)~~

~~**k.** *Preble's shrew - Sorex preblei.* (7-1-93)~~

~~**l.** *Pygmy shrew - Sorex hoyi.* (7-1-93)~~

~~**m.** *Pygmy nuthatch - Sitta pygmaea.* (7-1-93)~~

~~**n.** *Ringneck snake - Diadophis punctatus.* (7-1-93)~~

~~**o.** *Sand roller - Percopsis transmontana.* (7-1-93)~~

~~**p.** *Smooth green snake - Opheodrys vernalis.* (7-1-93)~~

~~**q.** *Spotted bat - Euderma maculatum.* (7-1-93)~~

~~**r.** *Three-toed woodpecker - Picoides tridactylus.* (7-1-93)~~

~~**s.** *Townsend's big-eared bat - Plecotus townsendii.* (7-1-93)~~

~~**t.** *Western pipistrelle - Pipistrellus hesperus.* (7-1-93)~~

~~**u.** *Western pond turtle - Clemmys marmorata.* (7-1-93)~~

~~*v.*~~ ~~*White-headed woodpecker - Picoides albolarvatus.*~~ ~~*(7-1-93)*~~

151. -- 199. (RESERVED).

200. PROTECTED NONGAME SPECIES.

01. Mammals. (7-1-93)

a. ~~*Bison - Bison bison*~~ American pika - *Ochotona princeps*. (7-1-93)

b. Bats - all species (3-15-04)T

~~*b*~~**c.** Chipmunks - ~~*Tamias*~~ *Neotamias spp*. (7-1-93)

d. Columbia Plateau (Merriam's) ground squirrel - Spermophilus canus vigilis (3-15-04)T

~~*c*~~**e.** Golden-mantled ground squirrel - *Spermophilus lateralis*. (7-1-93)

f. ~~*Pika - Ochotona princeps.*~~Great Basin (piute) ground squirrel - *Spermophilus canus vigilis* ~~*(7-1-93)(3-15-04)T*~~

~~**d**~~**g.** Kit fox - *Vulpes macrotis*. (7-1-93)

h. ~~*Wolverine - Gulo gulo.*~~North American wolverine - *Gulo gulo luscus.* ~~*(7-1-93)*~~(3-15-04)T

~~*e*~~**i.** Northern flying squirrel - *Glaucomys sabrinus*. (7-1-93)

~~*g*~~**j.** Red squirrel - *Tamiasciurus hudsonicus*. (7-1-93)

k. Rock squirrel - *Spermophilus variegatus.* (3-15-04)T

l. Southern Idaho ground squirrel - *Spermophilus brunneus endemicus.* (3-15-04)T

m. Wyoming ground squirrel - *Spermophilus elegans nevadensis.* (3-15-04)T

02. Birds. All native ~~S~~species. Except: ~~*(7-1-93)*~~(3-15-04)T

~~*a.*~~ ~~*English sparrow - Passer domesticus.*~~ ~~*(7-1-93)*~~

~~*b.*~~ ~~*Feral pigeons - Columba livia.*~~ ~~*(7-1-93)*~~

~~*c*~~**a.** Game birds. (7-1-93)

~~*d.*~~ ~~*Migratory birds.*~~ ~~*(7-1-93)*~~

~~*e.*~~ ~~*Predatory wildlife.*~~ ~~*(7-1-93)*~~

~~*f*~~**b.** Threatened or endangered wildlife. (7-1-93)

03. ~~***Predatory Wildlife.***~~ **Amphibians**. All native species ~~*(7-1-93)*~~(3-15-04)T

~~*a.*~~ ~~*Coyote - Canis latrans.*~~ ~~*(7-1-93)*~~

~~*b.*~~ ~~*Jackrabbit - Lepus townsendii and L. californicus.*~~ ~~*(7-1-93)*~~

~~*c.*~~ ~~*Skunk - Mephitis mephitis and Spilogale gracilis.*~~ ~~*(7-1-93)*~~

~~**d.** *Starling - Sturnus vulgaris.* *(7-1-93)*~~

~~**e.** *Weasel, ermine - Mustela erminea,* *(7-1-93)*~~

04. **Reptiles**. All native species. (3-15-04)T

05. **Fish**. (3-15-04)T

a. Bear Lake sculpin - *Cottus extensus*. (3-15-04)T

b. Leatherside chub - *Gila copei*. (3-15-04)T

c. Sand roller - *Percopsis transmontana*. (3-15-04)T

d. Shoshone sculpin - *Cottus greenei*. (3-15-04)T

e. Wood River sculpin - *Cottus leiopomus*. (3-15-04)T

201. PREDATORY WILDLIFE.

01. **Coyote**. *Canis latrans*. (7-1-93)

02. **Jackrabbit**. *Lepus townsendii* and *L. californicus*. (7-1-93)

0~~4~~3. **Long-Tailed and Short-Tailed Weasel, Ermine**. *Mustela frenata*, *Mustela erminea*. ~~*(7-1-93)*~~(3-15-04)T

0~~3~~4. **Skunk**. *Mephitis mephitis* and *Spilogale gracilis*. (7-1-93)

05. **Starling**. *Sturnus vulgaris*. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. PROTECTION OF WILDLIFE.

01. **Game Species**. Those species of wildlife classified as Big Game Animals, Upland Game Animals, Game Birds, Migratory Birds, Game Fish, Crustacea, or Furbearing Animals may be taken only in accordance with Idaho law and ~~*regulations*~~ rules established by the Idaho Fish and Game Commission. ~~*(7-1-93)*~~(3-15-04)T

02. **Protected Nongame~~*, Species Of Special Concern*~~ and Threatened or Endangered Species**. No person shall take or possess those species of wildlife classified as Protected Nongame, ~~*Species of Special Concern,*~~ or Threatened or Endangered at any time or in any manner, except as provided in Sections 36-106(e)~~*5*~~ and 36-1107, Idaho Code, ~~*or*~~ by Commission ~~*regulation*~~ rule, or IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife," Subsection 100.06.b. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health and/or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. ~~*(7-1-93)*~~(3-15-04)T

03. **Unprotected And Predatory Wildlife**. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner not prohibited by state or federal law, by holders of the appropriate valid Idaho hunting, trapping, or combination hunting and fishing licenses, provided such taking is not in violation of state, county, or city laws, ordinances, or regulations. (7-1-93)

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 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 Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Biennial season setting and rule adjustments. Establish a motorized vehicle use restriction for hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County.

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

The temporary rule confers a benefit to hunters by allowing the hunting season to continue without interruption.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Upland Game Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0107-0401

101. MOTORIZED VEHICLE USE RESTRICTIONS.
The use of motorized vehicles by hunters as an aid to hunting upland game animals is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

01. Use Restriction. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

02. Exceptions. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

03. Restricted Areas and Hunts. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

04. Defined Terms. (4-28-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

10~~1~~2. -- 199. (RESERVED).

200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.
Hunting, killing, or molesting upland game animals is prohibited in the following areas: (7-1-93)

01. Craters of the Moon. That area of Craters of the Moon National Monument in Blaine and Butte

Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~*(7-1-93)*~~(4-28-04)T

02. **Harriman State Park**. Harriman State Park Wildlife Refuge In Fremont County. (7-1-93)

03. **Nez Perce National Historical Park**. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

04. **Ada County**. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits; (5-3-03)

05. **Yellowstone National Park**. Yellowstone National Park in Fremont County; and (7-1-93)

06. **Mann's Lake**. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

0~~6~~7. **Other**. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

400. UPLAND GAME ANIMALS SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits shall apply STATEWIDE:*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

~~***01.*** ***Cottontail Rabbits.*** *(5-3-03)*~~

~~***a.*** *Seasons: September 1 through February 28, annually.* *(10-26-94)*~~

~~***b.*** *Daily bag limit is eight (8).* *(5-3-03)*~~

~~***c.*** *Possession limit after the first day of the season is sixteen (16).* *(5-3-03)*~~

~~***02.*** ***Snowshoe Hares.*** *(7-1-93)*~~

~~***a.*** *Seasons: September 1 through March 31, annually.* *(10-26-94)*~~

~~***b.*** *Daily bag limit is eight (8).* *(7-1-93)*~~

~~***c.*** *Possession limit after the first day of the season is sixteen (16).* *(7-1-93)*~~

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 Upland Game Seasons establishing seasons and limits for Upland Game hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23rd Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)334-2148

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 26, 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 Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Annual update of Big Game seasons and rules. Prohibit the hunting of Big Game within enclosures. Clarify the motorized vehicle hunting restriction. Clarify the use of the nonresident junior mentored hunting license and tags. Require an adult with a tag for the same species and area to accompany nonresident junior mentored hunters. Delete the requirement for a mandatory check of Panhandle elk. Clarify the areas closed to hunting. Define four-point deer. Simplify the evidence of sex requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the seasons to continue uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for the seasons to continue uninterrupted, and the need to publish the Big Game Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 03-0108-0401

010. DEFINITIONS.

01. Big Game Animals. Big game animals are defined as the following species: (7-1-93)

a. Mule deer - *Odocoileus hemionus*. (7-1-93)

b. White-tailed deer - *Odocoileus virginianus*. (7-1-93)

c. Elk - *Cervus elaphus*. (7-1-93)

d. Moose - *Alces alces*. (7-1-93)

e. Pronghorn antelope - *Antilocapra americana*. (7-1-93)

f. Rocky Mountain bighorn sheep - *Ovis canadensiscanadensis*. (7-1-93)

g. California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)

h. Mountain goat - *Oreamnos americanus*. (7-1-93)

i. Black bear - *Ursus americanus*. (7-1-93)

j. Mountain lion - *Puma concolor*. (4-5-00)

k. Gray wolf - *Canis lupus* (3-26-04)T

(BREAK IN CONTINUITY OF SECTIONS)

250. TAGS AND PERMITS.
No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

01. Use of Tags. (7-1-93)

a. Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)

~~***b.*** *A tag issued for mountain lion after the mountain lion season opens may NOT be used until the second day following its purchase.* *(3-20-97)*~~

~~***c.*** *A tag issued for black bear after the black bear season opens may NOT be used until the second day following its purchase.* *(3-20-97)*~~

~~***d***~~**b.** Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)

~~***e***~~**c.** Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)

~~***f***~~**d.** Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in

killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)

~~g~~e. Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)

~~h~~f. Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued ~~*first come - first served*~~ by lottery. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~*(3-30-01)*~~(3-26-04)T

ii. Clearwater Deer.

TYPE OF TAG	SEASONS
Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Resident Extra Clearwater	To hunt an extra any-antlerless deer tag season in Units 8, 8A, ~~*10,*~~ 10A, ~~*11,*~~ 11A, ~~*12, 13,*~~ 14, and 15~~*, 16, 16A, 17, 18, 19, and 20*~~. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.

TYPE OF TAG	SEASONS
Senior Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Nonresident Clearwater	To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.

~~*(3-30-01)*~~(3-26-04)T

iii. Elk A Tag: Valid~~*ate*~~ only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the and Tag permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~*(7-1-99)*~~(3-26-04)T

iv. Elk B Tag: Valid~~*ate*~~ only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.

TYPE OF TAG	SEASONS
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

~~(7-1-99)~~(3-26-04)T

v. Super Tag.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and "Super" Tag	Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(3-15-02)

g. Nonresident Junior Mentored Deer tags are not valid for bear or mountain lion. (3-26-04)T

h. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (3-26-04)T

i. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, valid in the same area. (3-26-04)T

02. Return of Tags by Unsuccessful Permittees. Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

03. Archery and Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any

other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

02. Nonresident Permit Limitations. (3-20-04)

a. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt ~~*only*~~ and to the controlled hunts for each species. ~~*(3-20-04)*~~(3-26-04)T

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) ~~*or Two-day (2) Deer License (Type 132)*~~ may not apply for any controlled hunt. ~~*(10-26-94)*~~(3-26-04)T

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)

d. Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on

any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (7-1-93)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit. (7-1-93)

h. Any person who has killed a moose in Idaho may not apply for a moose permit. (4-5-00)

~~***i.*** *Any person holding a Nonresident Hunting License (Type 202) or a duplicate thereof may not apply for a moose permit.* *(7-1-93)*~~

~~***j***~~**i.** Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

~~***k***~~**j.** Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag. (7-1-93)

~~***l***~~**k.** Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs". (7-1-99)

04. Applications. Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)

a. Spring black bear - Application period - January 15 - February 15. (3-26-04)T

~~***a***~~**b.** Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. ~~*(7-1-93)*~~(3-26-04)T

~~***b***~~**c.** Deer, elk, antelope and fall black bear - Application period for first drawing - May 1 - 31. ~~*(3-20-97)*~~(3-26-04)T

~~***c***~~**d.** ~~*Spring black bear - February 16*~~ Moose, bighorn sheep, and mountain goat – Application period for second drawing, if applicable - June 15 - 25. ~~*(3-20-97)*~~(3-26-04)T

e. Deer, elk, antelope, and fall black bear - Application period for second drawing - August 5 - 15. (3-26-04)T

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is ~~*five dollars ($5)*~~ set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. ~~*(7-1-98)*~~(3-26-04)T

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

f. A “group application” for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A “group application” for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

i. Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

06. Refunds of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar ($1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or

ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars ($5) will be refunded. Overpayment of five dollars ($5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

08. Unclaimed Permits. Successful applicants for the first deer, elk, black bear, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (3-26-04)T

261. -- 269. (RESERVED).

270. MANDATORY SCHOOL.

01. Sheep Permits. Anyone drawing a sheep permit must attend a mandatory sheep school at a Department office prior to hunting bighorn sheep. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. (7-1-93)

02. Use of Licensed Guide. Any hunter who will have an Idaho licensed guide with him at all times while hunting sheep may choose to have said guide attend in his place. This option may be accomplished by notifying the Department in writing of the name, address, and phone number of the designated guide. Notification must be sent to the Idaho Department of Fish and Game, c/o Sheep School, P.O. Box 25, Boise, Idaho 83707 and must be received by the Department prior to attendance by the designated guide. (7-1-93)

03. Mandatory Class for Deer Hunt Area 39-~~2~~3. Anyone drawing a deer controlled archery-only hunt permit for controlled hunt area 39-~~2~~3 must attend a mandatory hunter orientation class. The class is three (3) hours long and will be offered at times specified by the Department. The orientation classes will be offered on ten (10) dates between October 15 and November 15. Since classroom size is limited, each permittee must schedule a time to attend a class prior to October 15. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. Holders of "Certificates of Completion" from previous hunts are not required to attend this orientation class. ~~*(10-26-94)*~~(3-26-04)T

271. -- 299. (RESERVED).

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken as noted below: (7-1-93)

a. Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)

b. Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)

c. Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)

02. Seasons Restricted to Antlered or Male Animals Only. (7-1-93)

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow

point, and at least one (1) antler longer than three (3) inches may be taken in any season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (3-26-04)T

~~d~~e. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)

~~e~~f. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

~~f~~g. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)

~~g~~h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)

~~h~~i. Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)

03. Seasons Restricted to Antlerless or Female Animals Only. (7-1-93)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope. Only antelope without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. ~~*Evidence of sex must be left attached to the hide of any black bear or mountain lion taken until the mandatory check requirement has been complied with.*~~ Evidence of sex must be left naturally

attached to the carcass of any big game animal ~~*taken in a season restricted to antelope doe or fawn only, antlerless, female, antlered, or male animals only*~~. ~~*(7-1-98)*~~(3-26-04)T

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND the horns or antlers must accompany the carcass while in transit. (7-1-93)

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. (7-1-93)

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption. (7-1-93)

d. The entire head of antlerless male elk, moose, deer, or antelope or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, AND the lower jaw must accompany the carcass while in transit. (7-1-93)

e. For black bear and mountain lion external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. (7-1-98)

02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. (7-1-93)

03. Evidence of Size. Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. (7-1-93)

04. Other. The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.
No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives. (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

c. With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

d. With arrows or bolts having expanding broadheads. (7-1-93)

e. With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)

f. With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)

g. With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)

h. With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)

i. With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four hundred (400) grains. (3-20-97)

j. With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)

k. With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)

l. During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)

i. With any device attached that holds a bow at partial or full draw. (7-1-93)

ii. With any bow or crossbow equipped with magnifying sights. (3-20-97)

m. During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

i. With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)

ii. With any bow equipped with sights. (3-15-02)

n. With any crossbow pistol. (3-20-97)

03. Muzzleloaders. (7-1-93)

a. With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)

b. With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)

c. During a MUZZLELOADER ONLY season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket which: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)

vii. Is equipped only with flint, musket cap, or percussion cap. ~~(3-20-97)~~(3-26-04)T

d. During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-15-02)

i. Is loaded only with loose black powder or Pyrodex. (3-15-02)

ii. Is loaded only with a patched round ball projectile. (3-15-02)

04. Short-Range Weapon. During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

05. Other. (7-1-93)

a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, “Rules Governing the Use of Bait for Taking Big Game Animals”. (3-30-01)

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, “Rules Governing the Use of Dogs”. (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)

e. ~~*In Traditional Archery and Muzzleloader Hunts, the use of motorized vehicles shall be limited to public highways and improved highways which are open to public use.*~~ Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. ~~*(3-15-02)*~~(3-26-04)T

~~***f.*** *In Unit 47, motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.*~~ ~~*(3-20-04)*~~

~~***g.*** *Motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles in identified hunts in Units 32, 32A, 48, 49, 50, 51, 58, 59, 59A, 70, 72, 73, 75, 77, and 78. The hunts with a motorized vehicle restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.*~~ ~~*(3-20-04)*~~

411. MOTORIZED VEHICLE USE RESTRICTIONS.
The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (3-26-04)T

01. Use Restriction. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (3-26-04)T

02. Exceptions. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (3-26-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (3-26-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (3-26-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (3-26-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (3-26-04)T

03. Restricted Areas and Hunts. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. (3-26-04)T

04. Defined Terms. (3-26-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of

one thousand five hundred (1,500) pounds. (3-26-04)T

b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (3-26-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (3-26-04)T

41~~1~~2. -- 419. (RESERVED).

420. MANDATORY CHECK AND REPORT REQUIREMENTS.
Any hunter killing black bear, Panhandle elk, moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: (4-5-00)

01. Harvest Report. Completing the relevant harvest report (big game mortality report~~*, Panhandle mandatory elk report,*~~ or other report form as required) for the species taken. ~~*(7-1-93)*~~(3-26-04)T

02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

a. Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

b. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

c. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

d. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

e. Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

~~***f.*** *Panhandle Elk: (Elk killed in Units 1, 2, 3, 4, 4A, 5, 6, 7, or 9), head or lower jaw to be presented to conservation officer, regional office, official check point or check station.* *(7-1-93)*~~

03. Authorized Representative. A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas for Big Game. Hunting, killing, or molesting of any big game animal is

prohibited in the following areas: (7-1-93)

a. Craters of the Moon National Monument and Preserve in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. ~~*Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved.*~~ All of the lands added to the Monument and Preserve remain open to hunting, while lands within the former National Monument remain closed to hunting. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~*(3-15-02)*~~(3-26-04)T

b. All state parks, EXCEPT Farragut State Park that has a November/December deer archery season, Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve are all open to hunting; ~~*(7-1-93)*~~(3-26-04)T

c. ~~*All state land within City of Rocks National Reserve in Unit 55;*~~ Harriman State Park Wildlife Refuge. ~~*(7-1-93)*~~(3-26-04)T

~~***d.*** *Idaho National Engineering and Environmental Laboratory (INEEL) site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties, EXCEPT as modified in General A Tag hunt in the Big Desert Zone, elk controlled hunt areas 51-1, 51-2, 51-3, and 51-4 and antelope controlled hunt areas 51-2, 63-1 and 63-2. (4-5-00)*~~

~~***e***~~**d.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

~~***f***~~**e.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and ~~*then along Warm Springs Avenue and the New York Canal from the New York Canal Diversion Dam downstream to*~~ the Boise City limits; ~~*(7-1-99)*~~(3-26-04)T

~~***g***~~**f.** Yellowstone National Park in Fremont County; (7-1-93)

~~***h***~~**g.** On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

~~***i***~~**h.** All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

~~***j***~~**i.** All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

~~***k***~~**j.** Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

02. Mountain Lions. Mountain lion may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (7-1-93)

03. Black Bear. Black bear may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (7-1-93)

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. 13-0108-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 Big Game Seasons establishing seasons and limits for Big Game hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23rd Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)334-2148

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 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 Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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: Biennial season setting and rule adjustment for upland game birds. Establish a motorized vehicle use restriction for upland game bird hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County. Set a 10 a.m. start of shooting hours on certain Wildlife Management Areas.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the hunting seasons to continue uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons without interruption and to publish the Upland Game Bird Seasons Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut - P.O. Box 25, Boise, Idaho 83707
(208) 334-3715 / Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-0401

300. UPLAND GAME BIRD METHODS OF TAKE.

01. **Taking of Upland Game Birds**. No person shall take upland game birds: (7-1-93)

a. Except wild turkey, from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. Pheasants shall not be taken before twelve o'clock noon on the opening day in certain counties (see Rule 11, Pheasant Seasons). Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. Pheasants shall not be taken before 10 a.m. after the opening day on the Fort Boise, Montour, Payette River and C.J. Strike Wildlife Management Areas. ~~(7-1-93)~~(4-28-04)T

b. With a trap, snare, net, crossbow, or firearms EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, hand-held or thrown missiles, EXCEPT forest grouse. Forest grouse shall not be taken with a trap, snare, net, or crossbow. (3-30-01)

c. From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or if the boat is drifting naturally, or if it is propelled only by paddle, oars, or pole, or if it is beached, moored, or resting at anchor. (7-1-93)

d. By the use or aid of any electronic call. (7-1-93)

e. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (7-1-93)

02. **Wild Turkey**. In addition to the methods listed above, wild turkey may not be taken: (7-1-93)

a. With lead shot exceeding BB size. (7-1-93)

b. With steel shot exceeding T size. (7-1-93)

c. By the use of dogs, except during fall hunts. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

302. MOTORIZED VEHICLE USE RESTRICTIONS.
The use of motorized vehicles by hunters as an aid to hunting game birds is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

01. **Use Restriction**. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

02. **Exceptions**. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may

use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

03. **Restricted Areas and Hunts**. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Bird Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

04. **Defined Terms**. (4-28-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

30~~2~~3. -- 399. (RESERVED).

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

01. **General**. Hunting, killing, or molesting of any game bird is prohibited in the following areas: (7-1-93)

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~*(7-1-93)*~~(4-28-04)T

b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)

c. Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. (5-3-03)

f. Yellowstone National Park in Fremont County. (7-1-93)

g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)

h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). (5-3-03)

i. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)

j. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

02. **Migratory Game Birds**. In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)

a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)

b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. (7-1-93)

c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. (7-1-93)

d. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake. (3-15-02)

e. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. (7-1-93)

f. Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river. (7-1-93)

g. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. (7-1-98)

h. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. (7-1-93)

03. **Geese**. Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas: (7-1-93)

a. Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

b. Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. (12-7-94)

c. Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits shall apply:*~~ ~~*(10-26-94)*~~

01. Area 1. Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

~~***a.*** *Area 1 annual season begins the second Saturday of October and lasts through December 31.* *(7-1-98)*~~

~~***b.*** *Area 1 daily bag limit is three (3) cocks.* *(7-1-93)*~~

~~***c.*** *Area 1 possession limit after the first day of the season is six (6) cocks.* *(7-1-93)*~~

02. **Area 2**. Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Minidoka, Oneida, Power, Twin Falls, and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

~~***a.*** *Area 2 annual season begins at noon on the third Saturday of October and lasts through November 30.* *(7-1-99)*~~

~~***b.*** *Area 2 daily bag limit is three (3) cocks.* *(5-3-03)*~~

~~***c.*** *Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County, Cartier Wildlife Management Area in Madison County, and Sterling Wildlife Management Area in Bingham County is four (4) cocks.* *(3-30-01)*~~

03. **Area 3**. Area 3 includes Ada, Adams, Boise, Blaine, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

~~***a.*** *Area 3 annual season begins at noon (12:00 pm) on opening day, the third Saturday of October, and lasts through December 31.* *(7-1-99)*~~

~~***b.*** *Patch and Porter Islands: Opening Date is the third Saturday of October. Closing Dates: (Will be the same as those set for these areas by the Oregon Fish and Game Commission. Check with Idaho regional offices for dates or see Oregon small game regulations.)* *(10-26-94)*~~

~~***c.*** *Area 3 daily bag limit is three (3) cocks.* *(5-3-03)*~~

~~***d.*** *Area 3 possession limit after the first day of the season is six (6) cocks.* *(5-3-03)*~~

04. **WMA Pheasant Permit**. (10-26-94)

a. Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on ~~*any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03*~~ Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Pheasant Permit in his or her possession. ~~*(3-30-01)*~~(4-28-04)T

b. Permit Limit. The WMA Pheasant Permit limit is six (6) cocks. Additional permits may be purchased. (5-3-03)

c. Recording Harvest. Any person harvesting a pheasant on any of the Wildlife Management Areas listed in Subsection~~s~~ 600.0~~2~~4.a. ~~*and 600.03*~~ must immediately record their harvest, in writing, on the back of their permit. ~~*(3-30-01)*~~(4-28-04)T

05. **Youth Pheasant Season**. This season shall be open statewide. (7-1-99)

a. ~~*The Youth Pheasant Season begins on the first weekend of October and lasts two (2) days. In Areas 2 and 3 listed under this section, the season begins at noon.*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published

in a brochure available at Department offices and license vendors. ~~*(7-1-99)*~~(4-28-04)T

b. The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. One (1) adult may take more than one (1) youth hunter. (5-3-03)

~~***c.*** *The Youth Pheasant Season daily bag is three (3) cocks.* *(5-3-03)*~~

~~***d.*** *The Youth Pheasant Season possession limit after the first day of the season is six (6) cocks.* *(5-3-03)*~~

601. CHUKAR PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits apply statewide:* *(3-30-01)*~~

01. ~~***Season****. Annual season begins the third Saturday of September and lasts through January 15.*~~ **Area 1**. Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

02. ~~***Limit****. Daily bag limit is eight (8).*~~ **Area 2**. Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

03. ~~***Possession Limit****. Possession limit after the first day of the season is sixteen (16).*~~ **Area 3**. Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owhyee County east of the following boundary; beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

602. GRAY PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits apply statewide:* *(3-30-01)*~~

01. ~~***Season****. Annual season begins the third Saturday of September and lasts through January 15.*~~ **Area 1**. Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the

Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

02. ~~***Limit****. Daily bag limit is eight (8).*~~ **Area 2**. Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

03. ~~***Possession Limit****. Possession limit after the first day of the season is sixteen (16).*~~ **Area 3**. Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owhyee County east of the following boundary; beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits shall apply:*~~ ~~*(10-26-94)*~~

01. **Area 1**. Area 1 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. Season for quail in Area 1 is CLOSED. (5-3-03)

02. **Area 2**. Area 2 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, ~~*Camas,*~~ Canyon, ~~*Cassia,*~~ Clearwater~~*, Elmore,*~~ Gem~~*, Gooding,*~~ Idaho,~~*, Jerome,*~~ Kootenai, Latah, Lewis~~*, Lincoln, Minidoka*~~, Nez Perce, ~~*Owyhee*~~, Payette, Shoshone~~*, Twin Falls,*~~ Valley~~*, and*~~ Washington ~~*Counties.*~~, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

~~***a.*** *Area 2 annual season begins the third Saturday of September and lasts through December 31.* *(7-1-99)*~~

~~***b.*** *Area 2 daily bag limit is ten (10) of any kind.* *(7-1-98)*~~

~~***c.*** *Area 2 possession limit after the first day of the season is twenty (20) of any kind.* *(7-1-98)*~~

03. **Area 3**. Area 3 includes Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls counties, and also included is that portion of Owyhee County east of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line.Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation.The proclamation is published in a brochure available at Department offices and license vendors. (4-28-04)T

604. FOREST GROUSE (BLUE, RUFFED, AND SPRUCE).
~~*The following seasons, bag and possession limits apply statewide.*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(10-26-94)*~~(4-28-04)T

~~***01.*** ***Season.*** *September 1 through December 31, annually.* *(10-26-94)*~~

~~***02.*** ***Limit****. Daily bag limit is four (4) of any kind.* *(7-1-98)*~~

~~***03.*** ***Possession Limit****. Possession limit after the first day of the season is eight (8) of any kind.* *(7-1-98)*~~

605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits shall apply:* *(5-16-94)*~~

01. **Area 1**. Ada, Adams, Benewah, Blaine County within the Salmon River drainage, Boise, Bonner, Boundary, Canyon, Cassia County south of Interstate 86 and east of Interstate 84, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore County EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Payette, Power County south of Interstate 86, Shoshone, Valley, and Washington counties~~*– CLOSED*~~. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

02. **Area 2**. Bannock, Bear Lake, Bingham, Blaine County east of the Arco-Minidoka road, Bonneville, Butte County south of US Highways 20/26 and 22/33 and the entire Birch Creek drainage, Caribou, Cassia EXCEPT that portion south of Interstate 86 and east of Interstate 84, Clark, Franklin, Fremont, Jefferson, Lemhi County within the Birch Creek drainage, Madison, Oneida EXCEPT that portion north and east of Interstate 84, Owyhee County north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee County east of the Bruneau River, Power County north of Interstate 86, Twin Falls and Teton County north of Interstate 86, Twin Falls and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

~~***a.*** *Area 2 annual season begins the third Saturday of September and lasts seven (7) days.* *(7-1-98)*~~

~~***b.*** *Area 2 daily bag limit is one (1).* *(7-1-98)*~~

~~***c.*** *Area 2 possession limit after the first day of the season is two (2).* *(7-1-98)*~~

03. **Area 3**. Blaine County EXCEPT that part within the Salmon River drainage and that part east of the Arco-Minidoka Road, that part of Butte County north of US Highway 22/33 not within the Birch Creek drainage, and

that part west of the Arco-Minidoka Road, Camas, Custer County EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore County south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi County EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee County south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-3-03)*~~(4-28-04)T

606. SHARP-TAILED GROUSE SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits shall apply:*~~ ~~*(5-16-94)*~~

01. Area 1. Area 1 includes the following counties or portions of counties: Ada, Adams, Bannock County west of Interstate 15 and north of Interstate 86, Benewah, Bingham County west of Interstate 15, Blaine, Boise, Bonner, Bonneville County west of Interstate 15, Boundary, Butte, Camas, Canyon, Cassia County west of Interstate 84 north of the Malta-Sublett Road and west of the Malta-Strevell Road, Clark County west of Interstate 15, Clearwater, Custer, Elmore, Gem, Gooding, Idaho, Jefferson County west of Interstate 15, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power County north of Interstate 86, Shoshone, Twin Falls, Valley, and Washington County. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(5-16-94)*~~(4-28-04)T

~~***a.*** *Season for sharp-tailed grouse in Area 1 is CLOSED.* *(5-16-94)*~~

02. Area 2. Area 2 includes the following counties or portions of counties: Bingham County east of Interstate 15, Bonneville County east of Interstate 15, Clark County east of Interstate 15, Fremont, Jefferson County east of Interstate 15, Madison, Teton County, Bannock County east of Interstate 15 and south of Interstate 86, Bear Lake County, Caribou County, Cassia County east of Interstate 84 and that portion west of Interstate 84 south of the Malta-Sublett Road and east of the Malta-Strevell Road, Franklin County, Oneida County, and Power County south of Interstate 86. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

~~***a.*** *Area 2 annual season begins October 1 and lasts through October 31.* *(3-30-01)*~~

~~***b.*** *Area 2 daily bag limit is two (2).* *(5-16-94)*~~

~~***c.*** *Area 2 possession limit after the first day of the season is four (4).* *(5-16-94)*~~

(BREAK IN CONTINUITY OF SECTIONS)

616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits, and permits shall apply:*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-98)*~~(4-28-04)T

01. Controlled Hunts. Controlled hunt areas include the following: (7-1-98)

a. Area 1 includes all of Bear Lake County and all of Caribou County EXCEPT that portion downstream from the dam at Alexander Reservoir south of U.S. Highway 30, and that portion lying within the Grays Lake Basin. (5-3-03)

b. Area 2 includes all of Teton County. (5-3-03)

c. Area 3 includes all of Fremont County. (5-3-03)

02. Controlled Hunt Seasons, Bag and Possession Limits, and Permits.

HUNT AREA	HUNT NUMBER	SEASON	PERMITS
1	9501	September 1-2	80
1	9502	September 3-5	80
1	9503	September 6-8	35
1	9504	September 9-11	35
1	9505	September 12-15	33
1	9506	September 1-7	40
1	9507	September 8-15	35
2	9508	September 1-7	40
2	9509	September 8-15	35
NOTE: Daily limit is two (2) for all hunts. The season limit is nine (9).			

(5-3-03)

617. -- 619. (RESERVED).

620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.

01. General Hunts. General hunts include the following: All of Nez Perce County EXCEPT: (5-3-03)

a. Mann Lake closure in Lewiston Orchards. This includes all of the lake and three hundred (300) yards beyond the Bureau of Reclamation property encompassing the lake. (5-3-03)

b. Lewiston Preserve along the Clearwater River from Lewiston City limits to Spalding between Highway 12-95 on the north side of the river and the Camas Prarie Railroad on the south side. (5-3-03)

c. Lewiston City limits on the Clearwater River and the Snake River. (5-3-03)

d. Hellsgate State Park along the Snake River from the north end of the park upstream to the besalt bluffs opposite Asotin. (5-3-03)

02. General Hunt Seasons, Bag and Possession Limits, and Permits. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-98)*~~(4-28-04)T

~~***a.*** *Season: September 7, 2002 through September 13, 2002.* *(5-3-03)*~~

~~***b.*** *Possession limit after the first day of the season: Eight (8).* *(7-1-98)*~~

~~***c.*** *Daily bag limit: Four (4).* *(7-1-98)*~~

(BREAK IN CONTINUITY OF SECTIONS)

900. MIGRATORY GAME BIRD SEASONS, BAG AND POSSESSION LIMITS.
~~*The following season, bag, and possession limits shall apply to each species as follows:* *(7-1-93)*~~

01. Mourning Dove. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

~~***a.*** *The following season dates apply STATEWIDE: September 1 through September 30, annually.* *(10-26-94)*~~

~~***b.*** *Daily bag limit is ten (10).* *(7-1-93)*~~

~~***c.*** *Possession limit after the first day of the season is twenty (20).* *(7-1-93)*~~

02. Ducks Including Mergansers and American Coot. (7-1-93)

a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

03. Common Snipe. (7-1-93)

a. Area 1 is that area designated by the U.S.Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

04. Geese Including Dark Geese - Black Brant, Canada, Emperor, and White-Fronted, and Light Geese - Ross' and Snow. (9-1-93)

a. Area 1 includes the following counties: Benewah; Bonner; Boundary; Clearwater; Idaho; Kootenai; Latah; Lewis; Nez Perce; and Shoshone Counties. (9-1-93)

b. Area 2 includes the following counties or portions of counties: Ada; Adams; Boise; Canyon; those portions of Elmore north and east of Interstate 84, and south and west of Interstate 84 west of State Highway 51, EXCEPT that portion within the Camas Creek drainage; Gem; Owyhee west of State Highway 51; Payette; Valley; and Washington Counties. (9-1-93)

c. Area 3 includes the following counties or portions of counties: Blaine; Camas; Cassia; those portions of Elmore south of Interstate 84 east of State Highway 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of State Highway 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls Counties. (7-1-99)

d. Area 4 includes the following counties or portions of counties: Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville; Butte; Caribou EXCEPT the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; and Teton Counties. EXCEPT, Fremont and Teton Counties are CLOSED to the taking of light geese. (7-1-99)

e. Area 5 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (7-1-93)

f. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

05. Youth Waterfowl Hunting Day. (7-1-98)

a. The youth waterfowl hunting day is open only to youth from twelve (12) through fifteen (15) years of age. Any youth participating must: (7-1-98)

i. Have in his or her possession the appropriate, valid hunting license. (The Idaho Migratory Waterfowl Stamp and the Federal Migratory Bird stamp are not required (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20)). (7-1-98)

ii. Be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (7-1-98)

b. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

IDAPA 13 - DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0109-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 Game Birds Seasons establishing seasons and limits for Game Bird hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23th Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)334-2148

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 8, 2003.

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 Sections 36-104(b) and 36-901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Biennial season setting and rule adjustment for fishing. Clarify the definitions of float tube and snagging. Clarify steelhead and salmon rules.

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

The temporary rule confers a benefit to fishermen and allows the fishing seasons to continue uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the fishing seasons without interruption and to publish the Fishing Seasons Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fred Partridge (208) 287-2773.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0111-0401

004. DEFINITIONS.
For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

01. Artificial Fly. Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

02. Artificial Lure. Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters. (3-20-97)

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term "bag limit" shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

04. Bait. Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (See: Subsection 004.20 - NO BAIT.) (3-20-97)

05. Barbless Hook. A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

06. Catch-And-Release. A fishing restriction applied to a body of water requiring that all game fish, except whitefish and brook trout, must be released immediately, unharmed, back to the water. Only artificial flies or lures with one (1) barbless hook may be used in waters designated catch-and-release; bait is prohibited. It is permissible to use up to five (5) flies or lures, each with only one (1) barbless hook, per line. Whitefish and brook trout landed from catch-and-release waters may be retained in possession. (3-20-97)

07. Closed To Harvest. Effort, by permitted methods, to catch or attempt to catch a fish or group of fish is lawful, with the restriction that any fish or group of fish so caught must be released immediately back to the water. (3-20-97)

08. Confluence Of A Stream Or River. The point where two (2) rivers or streams come together. (3-20-97)

09. Electric Motors Only. When fishing waters listed "electric motors only", gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

10. Fishing. Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

11. Float Tube. A floating device ~~*which*~~ that suspends a single occupant, ~~*with his/her body*~~ from the ~~*waist*~~ seat down, in the water, and is not propelled by oars, paddles, or motors. ~~*(3-20-97)*~~(12-8-03)T

12. Fly Fishing. Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)

13. Game Fish. Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; ~~c~~Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. ~~*(3-20-97)*~~(12-8-03)T

14. **Harvest**. Reduce a fish to possession. (3-20-97)

15. **Hook**. A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)

16. **Ice Fishing**. Fishing through an opening broken or cut through the ice. (3-20-97)

17. **Length**. The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)

18. **Motor**. Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)

19. **Mouth Of River Or Stream**. The place where a river or stream enters a larger body of water. (3-20-97)

20. **No Bait**. Requires the use of artificial flies or lures, with one (1) barbless hook ONLY per fly or lure. (3-20-97)

21. **No Motors**. Fishing from a boat with a motor attached is prohibited. (3-20-97)

22. **Possession Limit**. Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)

23. **Reservoir**. The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)

24. **Season Limit**. The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)

25. **Snagging**. Taking or attempting to take a fish by ~~*hooking other than in the mouth or head*~~ use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. Game fish which are hooked other than in the ~~*head*~~ jaw or mouth must be released immediately. ~~*(3-20-97)*~~(12-8-03)T

26. **Steelhead**. Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Lemhi and the Pahsimeroi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam, and lakes). Rainbow trout longer than twenty (20) inches in length with the adipose fin ~~*missing*~~ clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam during steelhead seasons. ~~*(3-20-97)*~~(12-8-03)T

27. **Tributary**. A stream flowing into a larger stream or lake. (3-20-97)

28. **Trout**. Includes the following trout family fishes: brook, brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (12-8-03)T

2~~8~~9. **Unattended Line**. A line not under the immediate surveillance by the angler. (3-20-97)

~~29~~30. **Unprotected Nongame Fish**. All fish species other than game fish and protected species of special concern. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

201. FISHING METHODS AND GEAR.
Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

01. Archery And Spear Fishing. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

02. Bait Restricted. It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, no bait, or catch-and-release. (3-20-97)

03. Barbed Hooks. It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. It is unlawful to fish in artificial flies and lures only waters, or catch-and-release waters with barbed hooks. (3-20-97)

04. Fishing Gear. It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole validation may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing.
~~(3-20-97)~~(12-8-03)T

05. Fishing Shelters. Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

06. Gaff Hook. It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species. (3-20-97)

07. Molesting Fish. It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-20-97)

08. Snagging. It is unlawful to snag game fish, unless otherwise stated by Commission rules/ exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

09. Trapping And Seining Minnows Or Crayfish. It is lawful to take the young of unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided the seine or net does not exceed four (4) feet in length or width, and the minnow or crayfish trap does not exceed eighteen (18) inches in length or twelve (12) inches in diameter or width. If the trap is of irregular dimension, but its volume does not exceed the volume of an eighteen by twelve by twelve inches (18"x12"x12") trap, it is also lawful to use. All fish so taken must immediately be killed except where stated otherwise. All traps must have a tag attached bearing the owner's name and address. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. (3-20-97)

10. Use Of Bait. It is unlawful to use live fish as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (3-20-97)

11. Use Of Hands. It is lawful to take bull frogs and crayfish with the hands. (3-20-97)

202. BAG AND POSSESSION LIMITS.

01. Bag Limit. Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead.

(3-20-97)

02. Possession Limit. Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

03. Transport Or Gift. No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

04. Table On Bag And Possession Limits For Specified Fish.

SPECIES	BAG AND POSSESSION LIMITS	
BASS - Largemouth and Smallmouth	~~5~~ 6	In the aggregate of both species, NONE under 12 inches.
BROOK TROUT	~~10~~ 25	~~In addition to the trout limit on any water.~~
BULL TROUT (Dolly Varden)	NONE	There is no harvest season for bull trout. Any bull trout caught may not be removed from the water and must be released immediately.
BURBOT (Ling)	NONE	There is no harvest season for burbot. Any burbot caught may not be removed from the water and must be released immediately.
NORTHERN PIKE	~~5~~ 6	
SALMON (Anadromous)		See Rules 500 to 599
STEELHEAD		See Rules 400 to 499
STURGEON	NONE	There is no harvest season for sturgeon. Any sturgeon caught may not be removed from the water and must be released immediately. Barbless hooks required.
TIGER MUSKIE	2	NONE under ~~3~~40 inches.
TROUT - includes the following trout family fishes brook, brown, cutthroat, golden, grayling, lake, (Mackinaw), rainbow, splake, sunapee; trout hybrids; and the landlocked forms of chinook, coho, Atlantic and kokanee (blueback) salmon.	6	In the aggregate of all species (see Magic Valley Southeast, Upper Snake regions for special cutthroat trout restrictions).
WALLEYE and **SAUGER**	~~5~~ 6	In the aggregate of both species.
WHITEFISH	~~50~~ 25	~~50~~
NONGAME SPECIES OF SPECIAL CONCERN - Shoshone, Wood River and Bear Lake sculpin, sand-roller, leatherside chub, Pacific lamprey.	NONE	May not be taken or possessed.
All Species other than those listed above.	NO LIMIT	

~~(7-1-99)~~(12-8-03)T

05. Family Fishing Waters. Waters designated as Family Fishing Waters shall have a year round

season: a general bag limit for trout, bass, walleye and pike; no length limits; and allow the use of standard fishing gear. Pursuant to Section 36-105(3), Idaho Code, the Commission sets seasons and regional exceptions, including designated Family Fishing Waters, by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (12-8-03)T

0~~5~~6. **Special Limits**. No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

203. -- 298. (RESERVED).

299. TWO POLE BAG AND POSSESSION LIMITS, SEASONS, WATERS, AND METHODS OF GEAR.

01. **Bag And Possession Limits**. Holders of the two (2) pole validation shall have the same bag and possession limit as the general bag and possession limits and regional exceptions whether using one (1) or two (2) poles. Please see Fishing brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits, and regional exceptions. (3-30-01)

02. **Seasons**. The two (2) pole validation shall only be valid on waters which are open to fishing under the general fishing seasons and regional exceptions~~, *except two (2) poles or rods shall not be used to fish for adult anadromous fish (salmon or steelhead)*~~. ~~*(7-1-99)*~~(12-8-03)T

03. **Waters**. The two (2) pole validation is valid on all waters open to fishing under general rules and regional exceptions~~, *except not valid for adult anadromous fish*~~. ~~*(7-1-99)*~~(12-8-03)T

04. **Methods And Gear**. The restrictions of Section 201 shall apply to the use of two (2) poles under the two (2) pole validation, except for the number of handlines or poles. (7-1-99)

300. GENERAL FISHING SEASONS.
The following general seasons apply to all waters of the state, except as listed in "Regional Exceptions". (3-20-97)

01. **Lakes, Ponds And Reservoirs (Including Alpine Lakes)**. Extends ONLY to the edge of flat waters, excluding small, unnamed irrigation diversion ponds, beaver ponds and mill ponds.
OPEN ALL YEAR (3-20-97)

02. **Ditches And Canals**. Man-made structures used to transport water for irrigation or hydropower purposes.
OPEN ALL YEAR (3-20-97)

03. **Rivers And Streams**. Small, unnamed irrigation diversion ponds, beaver ponds and mill ponds have the same season as the river or stream on which they are located.

Saturday of Memorial Day Weekend through November 30
~~*2000: May 27-November 30*~~
~~*2001: May 26-November 30*~~ ~~*(3-30-01)*~~(12-8-03)T

04. **General Whitefish Season**. Fishing gear or bait restrictions which apply to a river or stream section during the season open for other species apply during the whitefish season.

~~*2000:*~~ January 1 - March 31 and: ~~*May 27*~~ December 1 - December 31
~~*2001: January 1-March 31 and: May 26-December 31*~~

NOTE: Whitefish or brook trout may also be taken in any waters during seasons open for other species, including reduced bag limit or size restricted waters, closed to harvest, and catch-and-release waters. ~~*(3-30-01)*~~(12-8-03)T

05. **General Steelhead Season**. See Rule Sections 400 through 499. (3-20-97)

06. **General Salmon Season**. See Rule Sections 500 through 599. (12-8-03)T

0~~6~~7. Bullfrogs, Crayfish And Nongame Fish. Bullfrogs, crayfish, and nongame fish may be taken ONLY during the season set for the taking of game fish in those waters. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. STEELHEAD DEFINITION.
See Subsection 004.26. (12-8-03)T

~~***01. Steelhead**. Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Pahsimeroi and Lemhi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam and lakes). In the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam, during steelhead seasons, rainbow trout longer than twenty (20) inches in length with the adipose fin missing (as evidenced by a healed scar) are defined as steelhead.* (3-20-97)~~

402. STEELHEAD LICENSES, TAGS AND PERMITS.

01. Licenses. Any person fishing for steelhead, except those expressly exempt, must have in his or her possession a valid fishing license and a steelhead permit. ~~*Any person who does not qualify as a resident must purchase either a Nonresident Three-Day Fishing License with Steelhead Permit or a nonresident season fishing license and a full season steelhead permit.* (3-20-97)~~(12-8-03)T

02. Permits. Any person fishing for, reducing to possession, or catching and releasing steelhead must have a valid steelhead permit in his or her possession. However, when a steelhead is immediately released unharmed, as in no harvest fishing, the angler is not required to make an entry on the permit. (3-20-97)

403. PERMIT VALIDATION.
When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

01. Permit. Completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
SNAKE RIVER	
Snake River, ~~*below*~~ downstream from Salmon River	01
Snake River, ~~*above*~~ upstream from Salmon River	02
Snake River, Hells Canyon Dam to Oxbow Dam	27
CLEARWATER RIVER	
Clearwater River, ~~*below*~~ downstream from Orofino Bridge	03
Clearwater River, ~~*above*~~ upstream from Orofino Bridge	04
North Fork Clearwater River	05
South Fork Clearwater River	07
SALMON RIVER	

RIVER LOCATION CODES	
Salmon River, ~~*below*~~ downstream from Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, ~~*above*~~ upstream from the East Fork	19
OTHER	
Little Salmon River	20
Panther Creek	24
Boise River	28
Payette River	29

~~*(3-20-97)*~~(12-8-03)T

03. **Date Entry**. Enter the month and day the fish was caught ~~*(3-20-97)*~~(12-8-03)T

(BREAK IN CONTINUITY OF SECTIONS)

405. STEELHEAD METHODS OF TAKE.

01. **Hooks**. Steelhead may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~*(3-20-97)*~~(12-8-03)T

02. **Snagging**. No person shall kill or retain in possession any steelhead which has been hooked other than in the ~~*head*~~ mouth or jaw. Any steelhead hooked other than in the ~~*head*~~ mouth or jaw must be immediately released unharmed. ~~*(3-20-97)*~~(12-8-03)T

03. **Legal Catch**. Any steelhead caught in a legal manner must be either released or killed immediately after it is landed. (3-20-97)

04. ~~***Restrictions And Legal Limit***~~ **Cease Fishing**. Once an angler has attained his bag, possession or season limit on those waters with steelhead limits, he must cease fishing for steelhead, including catch-and-release fishing~~*, EXCEPT in those river sections with a daily limit of one (1) steelhead per day, anglers may continue to fish on a catch-and-release basis only*~~. ~~*(3-20-97)*~~(12-8-03)T

05. **No Harvest Or Closed To Harvest**. Effort, by permitted methods, to catch or attempt to catch a steelhead is lawful with the restriction that any steelhead so caught must be released immediately, unharmed, back to the water. (3-20-97)

06. Keeping Marked Fish. Only steelhead which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (3-20-97)

07. Fish Counted in Limit. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (3-20-97)

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (3-20-97)

~~***09. One Rod**. Only one (1) rod or pole may be used to fish for steelhead, even if you have purchased a two-pole validation.* *(3-30-01)*~~

(BREAK IN CONTINUITY OF SECTIONS)

501. SALMON DEFINITIONS.

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River above Dworshak Dam), and the Boise and Payette River Drainages. ~~*(3-20-97)*~~(12-8-03)T

02. Jack Salmon. Chinook salmon under twenty (20) inches in total length are commonly called jack salmon. (3-20-97)

502. SALMON LICENSES AND PERMITS.

01. Licenses. Any person fishing for salmon, except those expressly exempt, must have in his or her possession a valid fishing license. ~~*Any person who does not qualify as a resident must purchase either a Nonresident Three Day Fishing License with a Salmon Permit or a nonresident season fishing license and a full season salmon permit.* *(3-20-97)*~~(12-8-03)T

02. Permits. Any person fishing for, reducing to possession, or catching and release~~e~~ing ~~c~~Chinook salmon must have a valid salmon permit in his or her possession. However, when a salmon is immediately released unharmed, the angler ~~*in*~~is not required to make an entry on the permit. ~~*(3-20-97)*~~(12-8-03)T

503. PERMIT VALIDATION.
When a ~~c~~Chinook salmon has been hooked, landed, and reduced to permission, the angler hooking the fish must immediately complete the following: ~~*(3-20-97)*~~(12-8-03)T

01. Permit. Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list in Subsection 403.02 and write it in the space provided. ~~*(3-20-97)*~~(12-8-03)T

03. Date Entry. Enter in the space provided, the month, and day the fish was caught. (3-20-97)

504. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.
No person shall have in the field or in transit any ~~c~~Chinook salmon from which the head or tail has been removed. ~~*(3-20-97)*~~(12-8-03)T

505. SALMON SPECIAL RESTRICTIONS.

01. Method Of Take. It is unlawful to use any hook larger than five-eights (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and

Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~(3-20-97)~~(12-8-03)T

02. **Snagging**. No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed. (12-8-03)T

03. **Legal Catch**. Any salmon caught in a legal manner must be either released or killed immediately after it is landed. (12-8-03)T

0~~2~~4. **Cease Fishing**. Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon. (3-20-97)

05. **No Harvest or Closed to Harvest**. Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water. (12-8-03)T

06. **Keeping Marked Fish**. Only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (12-8-03)T

07. **Fish Counted in Limit**. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (12-8-03)T

08. **Special Limits**. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (12-8-03)T

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 - 2005 Fishing Seasons establishing seasons and limits for fishing in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23rd Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)334-2148

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.12 - COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 26, 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 Sections 36-104(b) and 36-804, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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 Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgate a new rule with certain changes regarding the use of nets to take Lake Trout. These rules incorporate 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.

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

The temporary rule confers a benefit allowing the Commission to respond to legislative direction, and allowing the Department of Fish and Game to continue its fishery management uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Commission is responding to legislative direction and the need for fishery management to continue uninterrupted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Virgil Moore (208) 287-2771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0112-0401

13.01.12 - RULES GOVERNING COMMERCIAL FISHING ~~*IN THE STATE OF IDAHO*~~

000. LEGAL AUTHORITY.
The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-804, Idaho Code, to adopt rules concerning commercial fishing. (4-26-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.12.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.12, "Rules Governing Commercial Fishing". (4-26-04)T

02. Scope. These rules establish the criteria for commercial fishing in Idaho, identify waters where commercial fishing is allowed, and set standards for equipment. (4-26-04)T

002. WRITTEN INTERPRETATIONS.
This agency has no written interpretations of these rules. (4-26-04)T

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission," and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (4-26-04)T

004. INCORPORATION BY REFERENCE.
There are no documents which have been incorporated by reference into this rule. (4-26-04)T

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Idaho Fish and Game Commission and Idaho Department of Fish and Game is in Boise, Idaho. The Headquarters office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-26-04)T

00~~0~~6. -- 009. (RESERVED).

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. (7-1-93)

02. Commercial ~~*Non-Game*~~ Fish Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03 of this rule, only the following ~~*non-game*~~ fish species may be taken for commercial purposes: ~~*(7-1-93)*~~(4-26-04)T

a. Bluehead sucker - *Catostomus discobolus*. (7-1-93)

b. Bridgelip sucker - *Catostomus columbianus*. (7-1-93)

c. Carp - *Cyprinus carpio*. (7-1-93)

d. Chiselmouth - *Arocheilus alutaceus*. (7-1-93)

e. Fathead minnow - *Pimephales promelas*. (7-1-93)

f. Goldfish - *Carassius auratus*. (7-1-93)

g. Lake chub - *Couesius plumbeus*. (7-1-93)

h. Largescale sucker - *Catostomus macrochailus*. (7-1-93)

i. Leatherside chub - *Gila copei*. (7-1-93)

j. Leopard dace - *Rhinichthys falcatus*. (7-1-93)

k. Longnose dace - *Rhinichthys cataractae*. (7-1-93)

l. Mountain sucker - *Catostomus platyrhynchus*. (7-1-93)

m. Northern squawfish - *Ptychocheilus oregonensis*. (7-1-93)

o. Peamouth - *Mylocheilus caurinus*. (7-1-93)

p. Redside shiner - *Richardsonius balteatus*. (7-1-93)

q. Speckled dace - *Rhinichthys osculus*. (7-1-93)

r. Tench - *Tinca tinca*. (7-1-93)

s. Tui chub - *Gila bicolor*. (7-1-93)

t. Utah chub - *Gila atraria*. (7-1-93)

u. Utah sucker - *Catostomus ardens*. (7-1-93)

v. Lake trout – *Salvelinus namaycush*. (4-26-04)T

03. Commercial Crustacea Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03, only the Crayfish - species of the genus *Pacifastacus*, may be taken for commercial purposes. (7-1-93)

011. -- 099. (RESERVED).

100. LICENSES, TAGS AND PERMITS.

01. Licenses. Approved commercial gear may be set, operated, lifted or fished ONLY by the holder of a valid commercial fishing license to which the gear is registered or persons assisting in the presence of the licensee; except that any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel fishing tackle must either hold a commercial license or fishing license according to the Idaho Fish and Game Commission rules approved for sportfishing. The license must be in the possession of the licensee and made available at all times. ~~(7-1-93)~~(4-26-04)T

02. Tags. No person may set, operate, lift or fish commercial gear unless such gear has attached thereto valid commercial gear tags, except that no tags need be attached to conventional rod and reel fishing tackle used for commercial fishing. The Director of the Department of Fish and Game is authorized to issue special tags for experimental commercial gear under such conditions as the Director may deem appropriate. ~~(7-1-93)~~(4-26-04)T

03. Permits. The Director may issue permits authorizing the holder thereof to: (7-1-93)

a. Commercially fish for non-game fish or crustacea not listed as commercial species. (7-1-93)

b. Commercially fish in waters other than those listed in Section 700. (7-1-93)

c. Such permits shall be valid for a period not to exceed one (1) year. (7-1-93)

04. Revocation of Licenses and Permits. The Director of the Department of Fish and Game is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of the Fish and Game Code or these rules by the licensee or persons acting under the licensee's direction and control. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.
Fish or crustacea may be commercially harvested ONLY with the following gear and methods: (7-1-93)

01. With Seine Nets. However, all seine nets must be either: (7-1-93)

a. Under constant attendance by the licensee or someone working under the supervision of the licensee; or (7-1-93)

b. If being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. (7-1-93)

02. With Crayfish or Minnow Traps, Not Exceeding Three Feet in Any Dimension. However, all crayfish and minnow traps must be lifted and emptied of catch at least once every ninety-six (96) hours except during periods of weather that pose a threat to human life, health or safety. (7-1-93)

03. Experimental Gear. With experimental gear approved by the Director pursuant to Subsection 100.02. (7-1-93)

04. By Hand. For crayfish ONLY, by hand. (7-1-93)

05. Trawl Nets. With trawl nets as approved by the Director. (7-1-93)

06. Conventional Rod and Reel Fishing Tackle. Only methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," are permitted, except that the holder of a commercial license may use more than two (2) lines while commercially fishing. (4-26-04)T

(BREAK IN CONTINUITY OF SECTIONS)

700. COMMERCIAL FISHING AREAS.
Commercial harvest is allowed only in the following areas: (7-1-93)

01. For Seine Nets. Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

b. Ashton Reservoir. (7-1-93)

c. Palisades Reservoir. (7-1-93)

d. Lake Lowell. (7-1-93)

e. Black Canyon Reservoir. (7-1-93)

f. Blackfoot Reservoir. (7-1-93)

g. Mud Lake. (7-1-93)

h. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

02. **Minnow Traps**. Minnow traps for commercial fish may be ONLY used in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b. (7-1-93)

a. Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. (7-1-93)

b. Ashton Reservoir. (7-1-93)

c. Palisades Reservoir. (7-1-93)

d. Black Canyon Reservoir. (7-1-93)

e. Blackfoot Reservoir. (7-1-93)

f. Mud Lake. (7-1-93)

g. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

03. **Crayfish Traps**. Crayfish traps for commercial crustacea may be used ONLY in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

b. Black Canyon Reservoir. (7-1-93)

c. Blackfoot Reservoir. (7-1-93)

d. Mud Lake. (7-1-93)

e. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93

04. **Rod and Reel for Lake Trout Only**. (4-26-04)T

a. Lake Pend Orielle. (4-26-04)T

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 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 Sections 36-104(b) and 36-1102(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Changes chapter name. Biennial season setting and adjustments. Establish an area closed to hunting at Mann's Lake in Nez Perce County.

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

The temporary rule confers a benefit to hunters and continues the hunting season without interruption.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Migratory Bird Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
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(208) 334-3715
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0113-0401

13.01.13 - RULES GOVERNING THE TAKING OF ~~*MIGRATORY BIRDS*~~ AMERICAN CROW IN THE STATE OF IDAHO

000. LEGAL AUTHORITY.
The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1102(b), Idaho Code, to adopt rules concerning the taking of ~~*migratory birds*~~ American (common) crows in the state of Idaho. ~~*(5-3-03)*~~(4-28-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.13.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.13, "Rules Governing the Taking of ~~*Migratory Birds*~~ American Crow in the State of Idaho". ~~*(5-3-03)*~~(4-28-04)T

02. Scope. These rules establish the methods of take, seasons, and possession limits for ~~*migratory birds*~~ American (common) crows in the state of Idaho. ~~*(5-3-03)*~~(4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
~~*Migratory birds*~~ American (common) crows are defined as the following species: The American (common) crow: *Corvus brachyrhynchos*. ~~*(7-1-93)*~~(4-28-04)T

011. -- 099. (RESERVED).

100. ~~*MIGRATORY BIRDS*~~ AMERICAN CROW METHODS OF TAKE.
No person shall take ~~*migratory birds*~~ American (common) crow: ~~*(7-1-93)*~~(4-28-04)T

01. Time. From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. (7-1-93)

02. Type of Take. With trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. (7-1-93)

03. Position. From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or the boat is drifting naturally or it is propelled only by paddle, oars, or pole, or it is beached, moored, or resting at anchor. (7-1-93)

101. -- 199. (RESERVED).

200. AREAS CLOSED TO HUNTING OF ~~*MIGRATORY BIRDS*~~ AMERICAN CROW.
Hunting, killing, or molesting of any ~~*migratory bird*~~ American (common) crow is prohibited in the following areas: ~~*(7-1-93)*~~(4-28-04)T

01. Craters of the Moon National Monument. That area of Craters of the Moon National Monument in Blaine and Butte Counties~~;~~ prior to the November 2000 expansion by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~*(7-1-93)*~~(4-28-04)T

02. Hagerman Fossil Beds National Monument. Hagerman Fossil Beds National Monument in Twin

Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (7-1-98)

03. Harriman State Park Wildlife Refuge. Harriman State Park Wildlife Refuge in Fremont County; (7-1-93)

04. Nez Perce National Historical Park. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

05. Ada County. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits; (5-3-03)

06. Yellowstone National Park. Yellowstone National Park in Fremont County; and (7-1-93)

07. Mann's Lake. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

0~~7~~8. Other Locations. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

201. -- 299. (RESERVED).

300. ~~*MIGRATORY BIRD*~~ AMERICAN CROW SEASONS, BAG AND POSSESSION LIMITS.
~~*The following seasons, bag and possession limits apply STATEWIDE:*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

~~***01. Seasons**. Seasons for taking migratory birds are:*~~ ~~*(7-1-93)*~~

~~***a.** October 1 through January 31 annually.*~~ ~~*(9-7-94)*~~

~~***02. Limits**. There are no daily bag or possession limits on migratory birds.*~~ ~~*(9-7-94)*~~

IDAPA 13 - DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0113-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 - 2005 Migratory Bird Seasons establishing seasons and limits for crow hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23th Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
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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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 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 Sections 36-104(b) and 36-1102(c), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Biennial season setting and rule adjustments.

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

The temporary rule confers a benefit to falconers and allows the hunting seasons to continue without interruption.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons uninterrupted and to publish the Falconry Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
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THE FOLLOWING IS THE TEXT OF DOCKET NO 13-0114-0401

600. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME BIRDS.
~~*For season dates, bag and possession limits during the firearms seasons, see Game Bird Rules, IDAPA 13.01.09. The season, bag and possession limits during the falconry only seasons are as follows:* (7-1-93)~~

01. Upland Game Birds. (pheasants -- all varieties, gray partridge, chukar partridge, bobwhite quail, California quail, forest grouse -- blue, ruffed, spruce; sage grouse, sharp-tailed grouse): (10-26-94)

a. All counties or parts of counties which have a firearms season for a certain species are also open to hunting by falconry for that species. (10-26-94)

b. ~~*Seasons:*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

~~*i. August 15 to the opening of the firearms season and from the close of the firearms season through March 15 annually.* (10-26-94)~~

~~***c.*** *Daily bag limit: three (3) of any kind and shall not include more than one (1) pheasant (male or female), one (1) sage grouse, or one (1) sharp-tailed grouse.* (7-1-98)~~

~~***d.*** *Possession limit after the first day of the season: six (6) of any kind and shall not include more that two (2) pheasants (male or female), two (2) sage grouse or two (2) sharp-tailed grouse.* (7-1-98)~~

601. -- 609. (RESERVED).

610. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME ANIMALS.
~~*The following seasons, bag and possession limits shall apply statewide:*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(10-26-94)*~~(4-28-04)T

~~***01. Rabbit****. The cottontail rabbit season is March 1 through August 31, annually.* (5-3-03)~~

~~***02. Hare****. The snowshoe hare season is March 1 through August 31, annually.* (10-26-94)~~

~~***03. Bag Limit****. Daily bag limit is two (2) of any kind.* (7-1-98)~~

~~***04. Possession Limit****. After the first day of the season: four (4) of any kind.* (7-1-98)~~

611. -- 619. (RESERVED).

620. FALCONRY ~~*Seasons, Bag And Possession Limits*~~ FOR MIGRATORY GAME BIRDS.

01. Ducks Including Mergansers and American Coot. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(8-22-94)*~~(4-28-04)T

a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: ~~*(8-22-94)*~~

~~*i.*~~ Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of

State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. ~~*(8-22-94)*~~(4-28-04)T

~~*ii. Area 1 season for ducks (including mergansers) and American coot: CLOSED.* (7-1-99)~~

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: ~~*(8-22-94)*~~

~~*i.*~~ Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. ~~*(8-22-94)*~~(4-28-04)T

~~*ii. Area 2 season for ducks (including mergansers) and American coot: CLOSED.* (7-1-99)~~

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: ~~*(8-22-94)*~~

~~*i.*~~ Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. ~~*(8-22-94)*~~(4-28-04)T

~~*ii. Area 3 season for ducks (including mergansers) and American coot: CLOSED.* (7-1-99)~~

02. Mourning Dove. (8-22-94)

a. All counties or portions of counties which have a mourning dove season are open to hunting by falconry. (8-22-94)

b. ~~*Season for doves: November 1 through January 16, annually.*~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-98)*~~(4-28-04)T

03. Bag and Possession Limits. (8-22-94)

a. Daily bag limit is three (3) of any kind. (7-1-98)

b. Possession limit after the first day of the season is six (6) of any kind. (7-1-98)

621. -- 629. (RESERVED).

630. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR MIGRATORY BIRDS.
~~*Seasons, bag and possession limits shall apply as follows:*~~ Migratory birds may be taken by falconry ONLY during the firearms season. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(7-1-93)*~~(4-28-04)T

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.14 - RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

DOCKET NO. 13-0114-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 - 2005 Falconry Seasons establishing seasons and limits for falconry in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23th Day of August, 2004.

W. Dallas Burkhalter
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IDAPA 13 - DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0116-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 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 Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Biennial season setting and rule adjustment. Provide a definition of bait. Clarify the otter reporting requirement and increase the reimbursement for certain nontarget animals. Clarify a closure area.

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

The temporary rule confers a benefit to trappers and hunters, and allows the seasons to continue uninterrupted.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the seasons without interruption and publish the Furbearers, Predators and Unprotected Species Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0116-0401

010. DEFINITIONS.

01. Furbearing Animals. Furbearing animals are defined as the following species: (7-1-93)

a. Marten--*Martes americana*. (7-1-93)

b. Fisher--*Martes pennanti*. (7-1-93)

c. Mink--*Mustela vison*. (7-1-93)

d. Otter--*Lontra canadensis*. (3-30-01)

e. Beaver--*Castor canadensis.* (7-1-93)

f. Muskrat--*Ondatra zibethicus*. (7-1-93)

g. Bobcat--*Felis rufus*. (7-1-93)

h. Lynx--*Felis lynx*. (7-1-93)

i. Red Fox--*Vulpes vulpes*, and includes all color phases found in Idaho. (7-1-93)

j. Raccoon--*Procyon lotor.* (7-1-93)

k. Badger--*Taxidea taxus*. (7-1-93)

02. Predatory Wildlife. Predatory wildlife is defined as the following species: (7-1-93)

a. Coyote. (7-1-93)

b. Jackrabbit. (7-1-93)

c. Skunk. (7-1-93)

d. Weasel. (7-1-93)

03. Unprotected Wildlife. Unprotected wildlife is defined as all animals OTHER than those classified by the Fish and Game Commission as game animals, upland game animals, game birds, game fish, crustacea, migratory birds, furbearing animals, threatened or endangered wildlife, protected nongame wildlife or predatory wildlife. (7-1-93)

04. Bait. Bait is defined as any animal parts; except bleached bones or liquid scent. (4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

200. TRAPS.

01. Checking Traps. (7-1-93)

a. No person shall place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. (7-1-93)

b. Trappers acting under authority of the U.S. Department of Agriculture, Animal Plant Health Inspection Service, Wildlife Services are exempt from this rule. (7-1-99)

02. Removing Trapped Animals of Another. No person shall remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. (7-1-93)

03. Release of Non-Target Catches. (7-1-93)

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed. (7-1-93)

b. Any trapper who catches a non-target species that is dead shall: (7-1-93)

i. Prior to removing the animal, record the date and species of animal caught. This information must be included in the mandatory furtaker harvest report. (5-3-03)

ii. Remove the animal from the trap and take it into possession. (7-1-93)

iii. Notify the Department of Fish and Game through the local Conservation Officer, Subregional or Regional office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. (10-26-94)

iv. The Department will reimburse trappers ~~*five*~~ ten dollars ($~~5~~10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ~~*(7-1-99)*~~(4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

400. METHODS OF TAKE.

01. Furbearing Animals. No person shall take beaver, muskrat, mink, marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (5-3-03)

02. Hunting. No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

b. Hunt with dogs unless they comply with IDAPA 13.01.15, “Rules Governing the Use of Dogs”. (7-1-93)

c. Hunt any furbearing animal, except raccoon, with or by the aid of artificial light. (7-1-93)

d. No person hunting raccoon at night shall: (7-1-93)

i. Hunt from a motorized vehicle. (7-1-93)

ii. Use any light attached to any motor vehicle. (7-1-93)

iii. Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)

03. **Trapping**. No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Use for bait or scent, any part of ~~*any*~~ a domestic or wild origin game bird, game animal, game fish, or protected nongame wildlife. ~~*(7-1-93)*~~(4-28-04)T

b. Use any ~~*dry land*~~ set within thirty (30) feet of any visible bait ~~*except bleached bones of: furbearers, unprotected, or predatory wildlife*~~. ~~*(7-1-93)*~~(4-28-04)T

c. Use a dirt hole set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (7-1-93)

d. Use live animals as a bait or attractant. (4-28-04)T

401. -- 499. (RESERVED).

500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

01. **Mandatory Check and Report**. Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by: (5-3-03)

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. ~~*Trappers must surrender the skull and possibly other organs or the entire carcass to the Department to aid in evaluating the harvest.*~~ Otters harvested after the season has closed, or otters harvested in excess or a trapper's personal quota of two (2), must be turned into IDFG personnel. Check with the IDFG regional office for further information when reporting a harvest. ~~*(5-3-03)*~~(4-28-04)T

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho which does not have an official state export tag attached. (3-30-01)

02. **Pelt Tags**. A fee of two dollars ($2) will be charged for each pelt tag. An additional one-dollar and fifty cent ($1.50) vendor fee will be charged to each license holder when pelts are brought in for tagging. (3-30-01)

a. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-98)

b. No person shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt which does not have an official state export tag attached. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.
Hunting, trapping, killing or molesting of furbearing animals, predatory and unprotected wildlife is prohibited in the following areas: (7-1-93)

01. Craters of the Moon. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion by Presidential decree. It is the trapper's/hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~*(7-1-98)*~~(4-28-04)T

02. Hagerman Fossil Beds National Monument in Twin Falls County. (7-1-98)

03. Nez Perce National Historical Park. In Clearwater, Idaho, and Nez Perce Counties. (7-1-98)

04. Ada County. That portion of Ada County: (7-1-93)

a. Within Veterans Memorial Park; (7-1-93)

b. Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and (7-1-93)

c. Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. (7-1-93)

05. Stanley Creek. Wildlife Interpretive Area in Custer County. (7-1-98)

06. Yellowstone National Park. In Fremont County. (7-1-98)

07. Other Areas. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. (7-1-93)

08. National Wildlife Refuges. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

750. SEASONS.

01. Restricted Fur-Bearing Animals. There is NO open season for Fisher, Wolverine, Kit Fox, or Lynx. ~~*(3-30-01)*~~(4-28-04)T

02. ~~***Upland Game Brochure**. Please see the Upland Game brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits.***~~ **Proclamations**. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~*(3-30-01)*~~(4-28-04)T

IDAPA 13 - DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0116-0402P

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2004 -2005 Furbearer, Predators and Unprotected Species Seasons establishing seasons and limits for Furbearer, Predator, and Unprotected Species hunting and trapping in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be on:

November 17, 2004 at 7 p.m.
Ponderosa Restaurant
220 Michigan Avenue, Orofino, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-287-2766 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 23rd Day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho, 83707
(208)334-3715
Fax (208)334-2148

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 - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 8, 2003.

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 36-301, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 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:

Clarify and simplify the requirements and documentation for proving residency status for license sales.

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

The temporary rule confers a benefit to license buyers and license vendors by simplifying proof of residency requirements.

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: Not Applicible.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Seward (208) 287-2811.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0119-0401

130. ISSUING LICENSES AND TAGS.

01. Identification Required. A vendor shall receive proper identification as defined in Subsection 130.03 of this rule from each individual before issuing an Idaho resident license or tag. ~~*Collector stamps, n*~~Nonresident licenses, and daily fishing licenses do not require identification. ~~*(3-20-97)*~~(12-8-03)T

02. Ordering by Mail. Licenses and tags also may be obtained by mail by forwarding to the Idaho Department of Fish and Game, License Section, PO Box 25, Boise, ID 83707, a legible copy of proper identification as described in Subsection 130.03 of this rule: (3-20-97)

a. Applications for mail-ordered licenses and tags shall be made on department forms obtainable from department offices and shall be postmarked on or before any deadlines that may have been established for issuance of such license or tag. (3-20-97)

b. The department may require additional information to assist with the completion of mail-ordered transactions. (3-20-97)

c. Licenses or tags shall not be issued until the required fee has been received by the department in the form of personal check or money order. (3-20-97)

03. Proof of Residence. The vendor shall ~~*assure that sufficient*~~ confirm proof of residence ~~*is furnished*~~ before issuing a resident license. In cases where the vendor cannot obtain suitable proof of residence, the vendor should NOT issue the license and refer the applicant to the local conservation officer or department office so that residency can be verified by the department. ~~*Proper identification for resident documents include an Idaho driver's license or Idaho ID card.*~~ If a person drives and is applying for an Idaho resident Fish and Game license, they must provide a valid Idaho driver's license. A previous year's fish and game license is not acceptable proof of residency. ~~*If an applicant has neither and is not a minor child, then a combination of three pieces of identification are required bearing the name and address of the applicant, but not issued by himself, such as*~~ Acceptable proof of residency is: ~~*(3-20-97)*~~(12-8-03)T

a. A valid Idaho driver's license for all persons who drive. (12-8-03)T

b. Persons who have not been issued a driver's license, who do not drive and who are eighteen (18) years of age or older are required to prove residency by providing two (2) pieces of identification bearing the name and address of the applicant, but not issued by himself, acceptable documents are: (12-8-03)T

i. Idaho identification card. (12-8-03)T

~~*a*~~ii. In the case of a minor child (under eighteen (18)) identification from a parent. (3-20-97)

~~*b. Rent receipt or mortgage statement dated at least six (6) months prior. (3-20-97)*~~

~~*c*~~iii. Home electricity, gas, cable or phone utility bills dated at least six (6) months prior. ~~*(3-20-97)*~~(12-8-03)T

~~*d*~~iv. Notarized statement from an employer on business letterhead. (3-20-97)

~~*e*~~v. Proof of voter registration dated six (6) months prior. (3-20-97)

vi. A residency affidavit signed by the license purchaser. (12-8-03)T

04. Completion of Form. Vendor shall fill in all the information requested on the document, including

the full name, complete address, gender, date of birth, and mark the box for the type of document for which applicant is applying. (3-20-97)

05. Social Security Numbers. Vendor shall ~~*request voluntary*~~ require disclosure of social security numbers for any person who purchases a license. The social security number shall be used only as a unique number to assist the department with matching licenses and tags sold to an individual. Disclosure of social security numbers to the department is ~~*voluntary*~~ required by Section 73-122, Idaho Code, and the department shall not use such numbers for any purpose other than that expressed herein. A person's social security number is considered confidential and will not be released to any person by the department. ~~*(3-20-97)*~~(12-8-03)T

06. Vendor Employees. Any employee of the vendor may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. Vendor is responsible for employee training and for any violation of applicable statutes and regulations committed by employees. (3-20-97)

07. Resident Privileges. No one can claim Idaho resident privileges while claiming resident privileges in another state (except military personnel). (3-20-97)

08. Negligence. The issuing vendor must be sure that the license information is complete and is recorded before the license sale is final. Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. (3-20-97)

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LEGAL NOTICE

Summary of Proposed Rulemakings

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 01 - IDAHO BOARD OF ACCOUNTANCY
PO Box 83720, Boise, ID 83720-0002

01-0101-0402, Idaho Accountancy Rules. Updates incorporation by reference documents, references to the CPCFA of the AICPA and definitions; Board administrative costs will be paid by firms that are subject to peer review.

IDAPA 02 - DEPARTMENT OF AGRICULTURE
PO Box 790, Boise, ID 83701-0790

02-0104-0401, Rules Governing the Idaho Preferred Promotion Program. Clarifies requirements for wine, honey, honey-related products, nursery products and beef products to participate in the voluntary Idaho Preferred™ promotion program.

02-0303-0401, Rules Governing Pesticide and Chemigation Use and Application. Changes waiting period for applicants to retake failed exams to one week.

02-0406-0401, Rules Governing Requirements for Licensed Diary Plants. Updates the CFR incorporation by reference.

02-0407-0401, Rules Governing Grade A Condensed/Dry Milk and Whey Products. Repeal of chapter.

02-0408-0401, Rules Governing Grade A Milk and Milk Products. Adopts the “2003 Grade 'A' Pasteurized Milk Ordinance” by reference.

02-0409-0401, Rules Governing Methods of Making Sanitation Ratings of Milk Supplies. Adopts by reference the 2003 Revision of “Methods of Making Sanitation Ratings of Milk Shippers.”

02-0410-0401, Rules Governing the Cooperative State/Public Health Services and FDA Program for Certification of Interstate Milk Shippers. Incorporates by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, FDA Program for Certification of Interstate Milk Shippers”.

02-0412-0401, Rules of the Department of Agriculture Governing Standards for the Fabrication of Single-Service Containers and Closures for Milk and Milk Products. Repeal of chapter.

*****02-0419-0401, Rules Governing Domestic Cervidae***. Requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.

*****02-0425-0401, Rules Governing the Private Feeding of Big Game Animals***. Designates an eastern Idaho area where private feeding of big game animals is prohibited and how the interaction of livestock and big game animals on feedlines will be regulated.

02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law.
02-0602-0401 - Adds required section and definitions, and incorporates by reference the "2004 Official Publication" of AAFCO and the Merck Index.
02-0602-0402 - Incorporates by reference the "2005 Official Publication" of AAFCO.

02-0612-0402, Rules Pertaining to the Idaho Fertilizer Law. Incorporates by reference the "2005 Official Publication" of the AAPFCO.

02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.
02-0641-0401, Incorporates by reference the "2004 Official Publication" of the AAPFCO and the Merck Index.
02-0641-0402, Incorporates by reference the "2005 Official Publication" of the AAPFCO.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
PO Box 83720, Boise, ID 83720-0285

05-0101-0401, Rules of the Department of Juvenile Corrections and Standards for Private Contract Providers. Repeal of chapter.

05-0101-0402, Rules for Contract Providers. Chapter rewrite outlines standards for good care and treatment of juveniles placed with contract providers and for risk management.

05-0103-0401, Rules of the Custody Review Board. Requires that juveniles be seen by the Board prior to age 19 not just referred and, if seen but not retained, may be kept in custody for no more than 45 days after turning 19 for transition plans to be finalized.

05-0104-0401, Uniform Standards for Juvenile Probation Services. New chapter implements and establishes uniform standards for county juvenile probation services.

IDAPA 07 - DIVISION OF BUILDING SAFETY
1090 E. Watertower St., Meridian, ID 83642

*****07-0103-0403, Rules of Electrical Licensing and Registration - General***. Negotiated rulemaking.

07-0106-0403, Rules Governing the Use of the National Electrical Code. Updated incorporation by reference document to include new products used for safer installation and fusing on light poles.

07-0203-0401, Rules Governing Permit Fee Schedule. Sets inspection fees for the installation of multipurpose residential fire sprinkler and domestic water supply systems in a one- or two-family residence.

07.02.05 - Rules Governing Plumbing Safety Licensing.
07-0205-0401, Establishes a staggered schedule of apprentice and specialty apprentice registration and renewal per Idaho Code.
07-0205-0402, Revises the expiration date of the plumbing contractor and journeyman certificates of competency to a staggered schedule per Idaho Code.
07-0205-0403, Clarifies the four-year apprenticeship training requirements and number of hours required in each school year.

07-0207-0401, Rules Governing Civil Penalties. New chapter establishes civil penalties for plumbing code violations and a process to appeal imposed penalties.

07-0309-0401, Rules Governing Manufactured Homes - Consumer Complaints - Dispute Resolution. Establishes a dispute resolution program for manufacturers, retailers and installers of manufactured homes.

07-0311-0401, Rules Governing Manufactured/Mobile Home Licensing. Increases industry fees for issuance and renewals of licenses for dealers, manufacturers, service companies, installers, salesmen, and responsible managing employees.

07-0313-0401, Rules Governing Mobile Home Rehabilitation. Establishes a $50 processing fee that can be charged to applicants requesting a mobile home rehabilitation checklist and compliance certification. Fee will self-fund program.

07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.
07-0701-0402, Redefines "specialty contractor"; specifies issuance date for certificates of competency; lists additional qualifications for HVAC contractors; and designates a supervising journeyman.
07-0701-0403, Deletes permit expiration language that is already in Idaho Code.

IDAPA 08 - BOARD OF EDUCATION/ DEPARTMENT OF EDUCATION
650 W. State St., Room 307, Boise, ID 83720 (Board)
PO Box 83720, Boise, ID 83720-0027 (Department)

08.02.02 - Rules Governing Uniformity.
*****08-0202-0403***, Updates the "Standards for Idaho School Buses and Operations" manual that is incorporated by reference.
*****08-0202-0405***, Updates the "Idaho Standards for the Initial Certification of Professional School Personnel" manual that is incorporated by reference.
*****08-0202-0406***, Updates the "Standards for Commercial Driving Schools" manual that is incorporated by reference.

08-0202-0407, Updates the "Idaho Standards for Public School Driver Education and Training" manual that is incorporated by reference.
*****08-0202-0408***, Outlines state accreditation requirements all school districts must meet including developing and implementing district-wide strategic plans and school improvement plans.
08-0202-0409, Clarifies payment responsibilities for conducting both in-state and out-of-state teacher preparation program reviews.

08-0203-0404, Rules Governing Thoroughness. Clarifies award criteria to be consistent with federal requirements.

08.02.04 - Rules Governing Charter Schools.
*****08-0204-0401***, Repeal of chapter.
*****08-0204-0402***, Rewrite of chapter updates rules to conform to changes in Idaho law.

08-0301-0401, Rules of the Public Charter School Commission. New chapter outlines governance and oversight authority of the commission overseeing new charter schools.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR
PO Box 83720 Boise, ID 83720-0093

09.01.30 - Rules of the Benefits Bureau.
09-0130-0401, Adds definitions relating to electronic signatures for electronic filing and reporting on claims.
09-0130-0402, Requires all holiday pay to be reported in the week the holiday occurs to simplify reporting.

09.01.35 - Rules of the Employer Accounts Bureau.
09-0135-0401, Clarifies what an employer must do to qualify for a good cause waiver from penalties imposed by Employment Security Law.
09-0135-0402, Eliminates the option of reporting the workers of the client employer under the PEO's experience rate without transferring the prior benefit claims experience of the client employer.

09-0204-0401, Idaho Gem Grant Program. Eliminates requirement that rural communities be certified as "Gem Communities" to be eligible for a Gem Community Implementation Grant.

IDAPA 11 - IDAHO STATE POLICE
PO Box 700, Meridian, ID 83680-0700

11-1101-0401, Rules of the Idaho Peace Officer Standards and Training Council. Addresses military discharges; requires more timely notices of employment and entrance into academies; adds continuing training requirements;

eliminates some course attendance requirements for officers challenging the academy; and updates the patrol academy curriculum to accurately reflect what is being taught.

IDAPA 13 - DEPARTMENT OF FISH AND GAME
PO Box 25, Boise, ID 83707

13-0102-0401, Rules Governing Public Safety. Clarifies that the Hunter Education Program requirements may be completed through classroom study, home study, or an on-line computer course, and that the department will manage the program.

13-0104-0401, Rules Governing Licensing. Allows for nonresident license refund request to be filed within 1 year of a licensee's death; extends military personnel refund or raincheck rule for the 2004 season; sets nonresident deer and elk tag quotas.

13-0106-0401, Rules Governing Classification and Protection of Wildlife. Updates classification lists.

13-0107-0401, Rules Governing the Taking of Upland Game Animals. Sets biennial season limits; restricts motorized vehicle use for hunting in identified units; closes an area to hunting at Mann's Lake in Nez Perce County.

13-0108-0401, Rules Governing the Taking of Big Game Animals in the State of Idaho. Updates big game season limits; prohibits hunting within enclosures; clarifies motorized vehicle hunting restriction and the use of the nonresident junior mentored hunting license and tags; requires an adult with a tag for the same species and area to accompany nonresident junior mentored hunters; deletes mandatory check requirement of Panhandle elk; lists areas closed to hunting; defines four-point deer; simplifies the evidence of sex requirements.

13-0109-0401, Rules Governing the Taking of Game Birds in the State of Idaho. Sets biennial season limits; restricts motorized vehicle use for hunting in identified units; closes an area to hunting at Mann's Lake in Nez Perce County; sets a 10 a.m. start of shooting hours on certain Wildlife Management Areas.

13-0111-0401, Rules Governing Fish. Sets biennial season limits for fishing; clarifies definitions of float tube and snagging; and clarifies steelhead and salmon rules.

13-0112-0401, Rules Governing Commercial Fishing. Restricts use of nets to take lake trout in Lake Pend Oreille.

13-0113-0401, Rules Governing the Taking of Migratory Birds in the State of Idaho. Changes chapter name; sets biennial season limits and closes an area to hunting at Mann's Lake in Nez Perce County.

13-0114-0401, Rules Governing Falconry. Sets biennial season limits.

13-0116-0401, Rules Governing the Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. Sets biennial season limits; defines bait; clarifies otter reporting requirement; increases the reimbursement for certain nontarget animals; identifies a closure area.

13-0119-0401, Rules Covering Operating, Discontinuing, and Suspending Vendors. Simplifies requirements and documentation for proving residency status for license sales.

IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS
PO Box 83720, Boise, ID 83720-0033

14-0101-0401, Rules of Procedure of the Board of Registration of Professional Geologists. Updates office address.

IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING
3380 Americana Terrace, Ste. 120, Boise, ID 83706

15-0101-0401, Rules Governing Senior Services Program. Updates rule to reflect current practices and procedures and modifies the cost sharing payment rules to accommodate the growing need of low-income individuals.

15-0102-0401, Rules Governing Area Agency Adult Protection Program. Changes "performance based agreements" to "contracts" and clarifies "substantiated" as it relates to ICOA investigations into allegations of the abuse, neglect, and exploitation of vulnerable adults.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036

16-0226-0401, Rules Governing Idaho Children's Special Health Program. Changes enrollment and eligibility criteria.

16.03.09 - Rules Governing the Medical Assistance Program.
16-0309-0404, Allows for annual reviews of certain patients rather than quarterly reviews of nursing facilities. *****16-0309-0405***, Changes reimbursement methodology and rates used by Medicaid for ground and air ambulance services.

16-0309-0406, Clarifies what services and costs are covered by Medicaid reimbursement and the rate of payment for Home Health Agencies.
16-0309-0407, Clarifies who is required to have a criminal history background check and when the individual is available to provide services.

16.03.10 - Rules Governing Medicaid Provider Reimbursement in Idaho.
16-0310-0401, Changes and updates definitions, and adds provider record keeping and audit requirements.
16-0310-0402, Clarifies the current prospective payment methodology used in reimbursement to nursing home providers.

16-0317-0401, Service Coordination. Adds criminal history check requirement; extends to 60 days time allowed to develop service plan Service Coordination.

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION
PO Box 83720, Boise, ID 83720-0041

17-0602-0401, Boiler and Pressure Vessel Safety Rules. Designates appointment of a chief inspector who will sit on the National Board.

17-0701-0401, Safety Rules for Elevators, Escalators, and Moving Walks. Chapter repeal. Program has been moved to Division of Building Safety.

IDAPA 18 - DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043

18-0156-0401, Rebates and Illegal Inducements to Obtaining Title Insurance Business. Places additional limitations on title entities for donations and sponsorship of trade association events; updates self-promotional advertising standards and permitted business entertainment standards for title entities.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Suite 220, Boise, ID 83702

24-0101-0401, Rules Governing the Board of Architectural Examiners. Clarifies that the Intern Development Program is in addition to the required 8 years' experience; provides an effective date for continuing education.

24-0201-0401, Rules Governing the Board of Barber Examiners. Reduces fee for original and renewal licenses for barbers, barber stylists, and barber teachers to $25.

24-0501-0401, Rules Governing the Board of Drinking Water and Wastewater Professionals. New chapter implements state law and outlines the qualifications, definintions and continuing education requirements.

24-0601-0401, Rules Governing the Board of Hearing Aid Dealers and Fitters. Increases annual renewal fees;

clarifies the examination and reexamination process.

24-0701-0401, Rules Governing the Board of Landscape Architects. Increases original license and annual renewal fees to fund Board's operation.

24-0901-0401, Rules Governing the Board of Examiners of Nursing Home Administrators. Clarifies application review process; provides qualifications for endorsement applicants; requires nursing home administrators-in-training work in a licensed nursing home and complete a pertinent course of study.

24-1201-0401, Rules Governing the Board of Psychologist Examiners. Increases renewal fee to cap of $225; deletes definition and supervision requirements for psychology interns.

24-1401-0401, Rules Governing the Board of Social Work Examiners. Defines supervision requirements; sets guidelines for supervisor registration for licensure as clinical social worker; allows audio tapes and internet courses as continuing education; deletes references to pastoral counselors; clinical and independent practice is being extended until July 1, 2006; clarifies that 3000 hours of supervised experience in not less than 2 years is required; outlines limitations on supervisors.

24-1501-0401, Rules Governing the Idaho Board of Counselors and Marriage and Family Therapists. Clarifies required examination; deletes references to pastoral counselors; adds a special exemption for continuing education requirement for renewal of a license.

24-1601-0401, Rules Governing the State Board of Denturitry. Increases renewal fee.

24-1701-0401, Rules Governing the Idaho Board of Acupunture. Clarifies source for distance learning continuing education; provides hardship exemption for continuing education; adds section that outlines discipline as provided by statute.

24-1801-0401, Rules Governing the Idaho Board of Real Estate Appraisers. Updates incorporation by reference; makes changes to definitions and continuing education requirements.

24-1901-0401, Rules Governing the Board of Examiners of Residential Care Facility Administrators. Includes good moral conduct and suitability as qualifications for licensure.

IDAPA 27 - IDAHO STATE BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27.01.01 - Rules of the Idaho State Board of Pharmacy.
27-0101-0402, Allows for two telepharmacy pilot projects to be conducted in the state.
27-0101-0403, Makes Ephedrine products available through prescription only.
27-0101-0404, Adds new standards of conduct within the practice of pharmacy including reporting unprofessional conduct and cooperating in investigations; violation of these standards is unprofessional conduct.
27-0101-0405, Extends the expiration date of prescriptions from 1 year to15 months.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074

31-1101-0401, Safety and Accident Reporting Rules for Utilities. Updates CFR incorporation by reference.

31.21.01 - Utility Customer Relations Rules.
31-2101-0401, Allows a public utility to transfer a customer deposit to a new account or apply it to the account balance owing on an existing account; allows a public utility to forward abandoned deposits or advanced payment to a financial assistance program certified by the Commission.
*****31-2101-0402,*** Negotiated rulemaking.

31-4101-0401, Telephone Customer Relations Rules. Changes address deposits, medical certificates and adoption of the updated federal slamming regulations.

IDAPA 34 - OFFICE OF THE SECRETARY OF STATE
PO Box 83720, Boise, ID 83720-0080

34-0301-0401, Rules Implementing the Sunshine Law. Requires that lobbyists and their employers certify annual reports on expenditures; references online availability of reporting forms.

IDAPA 35 - IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410

35.01.01 - Income Tax Administrative Rules.
35-0101-0401, Numerous changes comply with federal and state law changes; adjusts tax rates; clarifies, adds, and removes certain deductions and exemptions.
35-0101-0402, Numerous changes made in response to Multistate Tax Commission (MTC) regulation changes.

35.01.02 - Idaho Sales and Use Tax Administrative Rules.
35-0102-0401, Removes obsolete provisions; brings rules into compliance with Idaho statutes; provides for variable tax filing cycles for retailers; updates Form 852 Idaho Sales Tax Return - County Assessors or Sheriffs; provides for refunds of sales tax paid in error.
35-0102-0402, Treats fiber optic cable as personal property not a real property improvement.

35.01.03 - Property Tax Administrative Rules.
35-0103-0401, Updates incorporation by reference documents; corrects statutory citations; implements and complies with statutory changes; clarifies certain exemptions.
35-0103-0402, Changes definition of “previously eligible” to recognize eligibility at any time since 1981 and deletes definition of “continued to be eligible”.

35-0105-0401, Motor Fuels Tax Administrative Rules. Adds required sections; deletes obsolete language; makes idling an activity not eligible for a special fuels tax refund; adds recordkeeping requirements for certain registrant’s of motor vehicles and removes others.

35-0201-0401, Tax Commission Administration and Enforcement Rules. Removes obsolete provisions; implements statutory changes for calculating interest rates and allowing for exchange of information.

IDAPA 36 - IDAHO BOARD OF TAX APPEALS
PO Box 83720, Boise, ID 83720-0088

36-0101-0401, Idaho Board of Tax Appeals Rules. No longer allows third party representation before the Board through a Board approved power of attorney; simplifies and eliminates abusive requests to engage in discovery.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129

39-0311-0401, Rules Governing Overlegal Permittee Responsibility and Travel Restrictions. Restricts over-width permitted vehicles from operating on certain sections of interstate highways during the hours of high-commuter traffic.

39-0341-0401, Rules Governing Traffic Control Devices. Adopts by incorporation by reference the most recent publication of the MUTCD with noted exceptions.

IDAPA 40 - IDAHO COMMISSION ON THE ARTS
2410 Old Penitentiary Rd., Boise, ID 83712

40-0101-0401, Rules of the Idaho Commission on the Arts. Sets requirements for applicants under the Commission's grant and award program.

IDAPA 49 - BOARD OF CERTIFIED SHORTHAND REPORTERS
PO Box 83720, Boise, ID 83720-0017

49-0101-0401, Rules of Procedure of the Idaho Certified Shorthand Reporters Board. Eliminates previous disciplinary hearing provisions and adds APA contested case provisions; makes housekeeping changes.

IDAPA 51 - IDAHO BEEF COUNCIL
2118 Airport Way, Boise, ID 83705-5156

51-0101-0401, Idaho Beef Council Rules. Deletes outdated reference to the Beef Industry Council and replaces it with generic language permitting the funds to be sent to a "national beef promotion program"; makes housekeeping changes.

IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD
1299 N. Orchard St., Suite 110, Boise, ID 83706

*****57-0101-0401, Rules Governing the Sexual Offender Classification Board***. New chapter outlines requirements for pre-sentence evaluations provided to the courts; establishes an application system to certify evaluators; provides quality assurance for evaluators and evaluations; sets Board procedures for designating high-risk sexual offenders as Violent Sexual Predators. Comment by: 11/6/04.

The Deadline For Submitting Written Comments For These Rulemakings
Is October 27, 2004, Unless Otherwise Listed.

****Public Hearings And Meetings Have Been Scheduled For These Dockets.**

Please refer to the Idaho Administrative Bulletin, **October 6, 2004, Volume 04-10** for notices and text of all rulemakings, public hearing schedules, proclamations, Governor's executive orders, and agency contact names.

Idaho Administrative Bulletin

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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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This index tracks the history of all agency rulemakings from 1993 to the present. It includes all rulemaking activities on each chapter of rules and includes negotiatied, temporary, proposed, pending and final rules, public hearing notices and vacated rulemaking notices.

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