SENATE HEALTH AND WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents - Volume 2

2006 Legislative Session

IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY

19.01.01 - Rules of the Idaho State Board of Dentistry

Docket No. ***19-0101-0501*** 3

Docket No. ***19-0101-0502*** 11

Docket No. ***19-0101-0503*** 23

IDAPA 22 - BOARD OF MEDICINE

22.01.05 - Rules Governing Licensure of Physical Therapists and Physical Therapist Assistants

Docket No. ***22-0105-0501*** 30

22.01.11 - Rules for the Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho

Docket No. ***22-0111-0501*** 47

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - Rules of the State Board of Chiropractic Physicians

Docket No. ***24-0301-0501*** 58

24.06.01 - Rules Governing the Idaho Board of Hearing Aid Dealers and Fitters

Docket No. ***24-0601-0501 (Chapter Repeal)*** 64

24.11.01 - Rules of the State Board of Podiatry

Docket No. ***24-1101-0501*** 66

24.14.01 - Rules of the State Board of Social Work Examiners

Docket No. ***24-1401-0501*** 71

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - Rules of the Idaho Board of Pharmacy

Docket No. ***27-0101-0501*** 77

Docket No. ***27-0101-0502*** 82

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - Rules for the Control of Air Pollution in Idaho

Docket No. ***58-0101-0501*** 85

Docket No. ***58-0101-0503*** 94

Docket No. ***58-0101-0504*** 137

Docket No. ***58-0101-0505*** 143

58.01.01 - Rules for the Control of Air Pollution in Idaho
Docket No. ***58-0101-0506*** 157
Docket No. ***58-0101-0507*** 173
Docket No. ***58-0101-0508*** 179
58.01.05 - Rules and Standards for Hazardous Waste
Docket No. ***58-0105-0501*** 188
58.01.08 - Idaho Rules for Public Drinking Water Systems
Docket No. ***58-0108-0501*** 198

HEALTH AND WELFARE

IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-912(4), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 6, 2005, Idaho Administrative Bulletin, Volume 05-7, pages 54 through 58.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact Michael J. Sheeley, Executive Director, Idaho State Board of Dentistry, at (208) 334-2369.

DATED this 8th day of August, 2005.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
708½ W. Franklin Street
Boise, Idaho 83702
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

The Following Notice Was Published With The 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 54-912(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 July 20, 2005.

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 rulemaking is for the following purposes: to incorporate updated revisions of the American Dental Association's "Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry" and "Guidelines for Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists" into the Board of Dentistry's administrative rules by reference; to clarify permissible duties of a dental hygienist by deleting redundant and antiquated terms from existing duties and specifying additional permissible duties; and to authorize a properly trained dental assistant who holds the appropriate expanded function certification to initiate and regulate nitrous oxide for a patient while the dental assistant is working under the direct supervision of a dentist.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of the proposed rulemaking was previously provided to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, Idaho Board of Dentistry, at (208) 334-2369.

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 July 27, 2005.

DATED this 16th day of May, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE (RULE 4).
Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Documents. (7-1-93)

a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, 6th Edition, 2000. (3-15-02)

b. American Dental Association, Council on Dental Education, Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, October 200~~0~~3. ~~(3-15-02)~~( )

c. American Dental Association, Council on Dental Education, Guidelines for Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists, October 200~~0~~3. ~~(3-15-02)~~( )

d. Centers for Disease Control and Prevention, DHHS, Guidelines for Infection Control in Dental Health-Care Settings, 2003. (4-6-05)

e. American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), January 2003(as amended). (3-20-04)

f. American Dental Hygienists' Association, Code of Ethics for Dental Hygienists (ADHA Code), 1995. (4-6-05)

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 708 1/2 West Franklin Street, Boise, Idaho 83720, or the Idaho State Law Library, Supreme Court Building, 451 W. State Street, Boise, Idaho 83720. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

030. DENTAL HYGIENISTS - PRACTICE (RULE 30).
Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, dental hygienists are hereby authorized to perform the activities specified below: (4-6-05)

01. General Supervision. A dental hygienist may perform specified duties under general supervision as follows: (4-6-05)

a. ~~*Performing o*~~Oral prophylaxis (including removal of supragingival and subgingival calculus, stains and ~~*accretions*~~ plaque biofilm from teeth); ~~(4-6-05)~~( )

b. ~~*Performing*~~ Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and

periodontal assessment); ~~*(4-6-05)*~~(____)

c. Developing patient care plans for prophylaxis, ~~*and*~~ non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist; ~~*(4-6-05)*~~(____)

d. ~~*Performing r*~~Root planing; ~~*(4-6-05)*~~(____)

e. ~~*Performing n*~~Non-surgical periodontal therapy; ~~*(4-6-05)*~~(____)

f. ~~*Performing c*~~Closed subgingival curettage; ~~*(4-6-05)*~~(____)

g. Administration of local anesthesia; (4-6-05)

h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited); (4-6-05)

i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy); (4-6-05)

j. Instructing patients in techniques of oral hygiene and preventive procedures; (4-6-05)

k. Placement of antibiotic treated materials pursuant to written order and site specific; (4-6-05)

l. ~~*Performing a*~~All duties which may be performed by a dental assistant; and ~~*(4-6-05)*~~(____)

m. ~~*Performing s*~~Such other duties as approved by the Board. ~~*(4-6-05)*~~(____)

02. Indirect Supervision. A dental hygienist may perform specified duties under indirect supervision as follows: (4-6-05)

a. Administration and monitoring of nitrous oxide; (4-6-05)

b. All dental hygienist duties specified under general supervision; and (4-6-05)

c. ~~*Performing s*~~Such other duties as approved by the Board. ~~*(4-6-05)*~~(____)

03. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: (4-6-05)

a. Use of a laser restricted to gingival curettage and bleaching; (4-6-05)

b. All dental hygienist duties specified under general and indirect supervision; and (4-6-05)

c. ~~*Performing s*~~Such other duties as approved by the Board. ~~*(4-6-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

035. DENTAL ASSISTANTS - PRACTICE (RULE 35).

01. Direct Supervision. A dental assistant may perform specified activities under direct supervision as follows: (4-6-05)

a. Recording the oral cavity (existing restorations, missing and decayed teeth); (4-6-05)

b. Placement of topical anesthetic agents (prior to administration of a local anesthetic by a dentist or dental hygienist); (4-6-05)

c. Removal of excess bonding material from temporary and permanent restorations and orthodontic appliances (using hand instruments or contra-angle handpieces with disks or polishing wheels only); (4-6-05)

d. Expose and process radiographs; (4-6-05)

e. Take impressions for preparation of diagnostic models, bleach trays, fabrication of night guards, temporary appliances, temporary crowns or bridges; (4-6-05)

f. Record diagnostic bite registration; (4-6-05)

g. Record bite registration for fabrication of restorations; (4-6-05)

h. Provide patient education and instruction in oral hygiene and preventive services; (4-6-05)

i. Placement of cotton pellets and temporary restorative materials into endodontic access openings; (4-6-05)

j. Placement and removal of arch wire; (4-6-05)

k. Placement and removal of orthodontic separators; (4-6-05)

l. Placement and removal of ligature ties; (4-6-05)

m. Cutting arch wires; (4-6-05)

n. Removal of loose orthodontic brackets and bands to provide palliative treatment; (4-6-05)

o. Adjust arch wires; (4-6-05)

p. Etching of teeth prior to placement of restorative materials; (4-6-05)

q. Etching of enamel prior to placement of orthodontic brackets or appliances by a Dentist; (4-6-05)

r. Placement and removal of rubber dam; (4-6-05)

s. Placement and removal of matrices; (4-6-05)

t. Placement and removal of periodontal pack; (4-6-05)

u. Removal of sutures; (4-6-05)

v. Application of cavity liners and bases; (4-6-05)

w. Placement and removal of gingival retraction cord; (4-6-05)

x. Application of topical fluoride agents; and (4-6-05)

y. Performing such other duties as approved by the Board. (4-6-05)

02. Prohibited Duties. Subject to other applicable provisions of these rules and of the Act, dental assistants are hereby prohibited from performing any of the activities specified below: (7-1-93)

a. Definitive diagnosis and treatment planning. (4-6-05)

b. The placement or carving of permanent restorative materials in any manner. (7-1-93)

c. Any procedure using lasers. (4-6-05)

d. The administration of any general anesthetic, infiltration anesthetic or any injectable nerve block procedure. (4-6-05)

e. Any oral prophylaxis. Oral prophylaxis is defined as the removal of plaque, calculus, and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing. (7-1-93)

f. Any intra-oral procedure using a highspeed handpiece, except to the extent authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity. (4-6-05)

g. The following expanded functions, unless authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity and performed under direct supervision: (4-6-05)

i. Fabrication and placement of temporary crowns; (4-6-05)

ii. Perform the mechanical polishing of restorations; (7-1-93)

iii. Initiating, regulating and ~~M~~monitoring the administration of nitrous oxide analgesia to a patient ~~*while nitrous oxide analgesia is being administered*~~; ~~*(4-6-05)*~~( )

iv. Application of pit and fissure sealants; (7-1-93)

v. Coronal polishing, unless authorized by a Certificate of Registration; this refers to the technique of removing soft substances from the teeth with pumice or other such abrasive substances with a rubber cup or brush. This in no way authorizes the mechanical removal of calculus nor is it to be considered a complete oral prophylaxis. This technique (coronal polishing) would be applicable only after examination by a dentist and removal of calculus by a dentist or dental hygienist. (7-1-93)

vi. Use of a highspeed handpiece restricted to the removal of orthodontic cement or resin. (4-6-05)

03. Expanded Functions Qualifications. A dental assistant may be considered Board qualified in expanded functions, authorizing the assistant to perform any or all of the expanded functions described in Subsection 035.02.g. upon satisfactory completion of the following requirements: (4-6-05)

a. Completion of Board-approved training in each of the expanded functions with verification of completion of the training to be provided to the Board upon request by means of a Certificate of Registration or other certificate evidencing completion of approved training. The required training shall include adequate training in the fundamentals of dental assisting, which may be evidenced by: (4-6-05)

i. Current certification by the Dental Assisting National Board; or (7-1-93)

ii. Successful completion of a Board-approved course in the fundamentals of dental assisting; or (3-18-99)

iii. Successfully challenging the fundamentals course. (7-1-93)

b. Successful completion of a Board-approved competency examination in each of the expanded functions. There are no challenges for expanded functions. (3-18-99)

04. Course Approval. Any school, college, institution, university or other teaching entity may apply to the Board to obtain approval of its courses of instruction in expanded functions. Before approving such course, the Board may require satisfactory evidence of the content of the instruction, hours of instruction, content of examinations or faculty credentials. (3-18-99)

05. Other Credentials. Assistants, who have completed courses or study programs in

expanded functions that have not been previously approved by the Board, may submit evidence of the extent and nature of the training completed, and, if in the opinion of the Board the same is at least equivalent to other Board-approved courses, and demonstrates the applicant's fitness and ability to perform the expanded functions, the Board may consider the assistant qualified to perform any expanded function(s). (3-18-99)

HEALTH AND WELFARE

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-912(4), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 7, 2005, Idaho Administrative Bulletin, Volume 05-9, pages 177 through 184.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: There is no fiscal impact on the state general fund as the result of these administrative rule changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael J. Sheeley, Executive Director, Idaho State Board of Dentistry, at (208) 334-2369.

DATED this 24th day of October, 2005.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
708½ W. Franklin Street
Boise, Idaho 83702
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-912(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 September 21, 2005.

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 Board of Dentistry proposes to create and issue a new oral conscious sedation permit, in addition to the two (2) existing sedation permits, to allow qualified dentists to administer oral medications (no intravenous administration) to sedate a patient to the level of conscious sedation (minimally depressed level of consciousness). An oral conscious sedation permit is warranted because many Idaho dentists want to sedate their patients for treatment but do not desire to do so by intravenous administration. The educational and patient experience requirements, required for issuance of the proposed oral conscious sedation permit, are consistent with the standards recommended by the American Dental Association. Additional requirements for the oral conscious sedation permit would include dental office and staff evaluations regarding mandatory emergency equipment and protocols.

The benefits of the oral conscious sedation permit to the dental profession and the public would be as follows:

1) Anxious or fearful patients could be sedated in order to receive treatment; and

2) The nature and length of treatment required for many dental procedures require that a patient be sedated for safety and comfort purposes.

In order to fully effectuate the proposed oral conscious sedation permit rules, the Board proposes to consolidate currently existing sedation rules and add necessary substantive provisions.

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

The current sedation permit application fee of $300 will be applicable to the proposed oral conscious sedation permit. The effective period of the proposed oral conscious sedation permit will be five (5) years. The Board of Dentistry's authority to impose fees is found at Section 54-912(4), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year

resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of the proposed rulemaking was previously provided to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, Idaho Board of Dentistry, at (208)334-2369.

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 September 28, 2005.

DATED this 19th day of July, 2005.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0502

007. -- ~~*008*~~009.(RESERVED).

~~***009. DEFINITIONS (RULE 9).***~~
~~*For the purposes of these rules, the following terms will be used, as defined below:* *(7-1-93)*~~

~~***01. Methods of Anxiety and Pain Control.*** *(3-18-99)*~~

~~***a.*** *Local Anesthesia. The elimination of sensation, especially pain, in one (1)part of the body by the topical application or regional injection of a drug.* *(3-18-99)*~~

~~***b.*** *General Anesthesia. An induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.* *(3-18-99)*~~

~~***c.*** *Deep Sedation. An induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.* *(3-18-99)*~~

~~***d.*** *Conscious Sedation. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.* *(3-18-99)*~~

~~***02.*** ***Routes of Administration.*** *(3-18-99)*~~

~~***a.*** *Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual).* *(3-18-99)*~~

~~***b.*** *Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO).* *(3-18-99)*~~

~~***c.*** *Transdermal/transmucosal. A technique of administration in which the drug is administered by patch or iontophoresis.* *(3-18-99)*~~

(BREAK IN CONTINUITY OF SECTIONS)

052. -- ~~*054*~~053.(RESERVED).

054. DEFINITIONS (RULE 54).
For the purposes of these anesthesia rules, the following terms will be used, as defined below: ( )

01. Methods of Anxiety and Pain Control. ( )

a. Anxiolysis shall mean the process of the diminution or elimination of the patient's anxiety, apprehension or fear by the administration of a pharmacological agent that renders the patient relaxed but does not impair the patient's ability to maintain normal mental abilities and vital functions. An oral sedative agent can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. ( )

b. Conscious sedation shall mean a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, and that is produced through the enteral or parenteral administration of a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation. Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. ( )

c. Deep sedation shall mean an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and that is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )

d. General anesthesia shall mean an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and that is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )

e. Local anesthesia shall mean the elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. ( )

f. Nitrous oxide inhalation analgesia shall mean an induced controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen, in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command. ( )

02. Sedation Terms. ( )

a. Advanced Cardiac Life Support (ACLS) shall mean an advanced cardiac life support course offered by a recognized accrediting organization. ( )

b. Monitor or monitoring shall mean the direct clinical observation of a patient during the administration of anesthesia by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. ( )

c. Operator shall mean the supervising dentist or another person who is authorized by these rules or holds a permit to induce and administer the proper level of anesthesia/sedation. ( )

d. Titration shall mean the administration of small incremental doses of a drug until a desired clinical effect is observed. ( )

03. Routes of Administration. ( )

a. Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). ( )

b. Inhalation. A technique of administration in which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed. ( )

c. Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO)). ( )

d. Transdermal/transmucosal. A technique of administration in which the drug is administered by patch or iontophoresis. ( )

Current Section 055 is being moved and renumbered to Section 061

055. ANXIOLYSIS (RULE 55).
Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules may administer medication to patients for the purpose of relieving anxiety so long as the medication is given in a dosage that is within the current guidelines set forth for anxiolytic dosage on the manufacturer's package insert or other recognized drug reference and does not induce a state of depressed consciousness to the level of general anesthesia, deep sedation, or conscious sedation in the patient. ( )

01. Patient Safety. The administration of anxiolytics by means of titration or in combination with nitrous oxide inhalation analgesia is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of conscious sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of conscious sedation, deep sedation or general anesthesia. Nitrous oxide inhalation analgesia shall not be used in combination with anxiolytic medication except during the limited period of time required to administer a local anesthetic. Notwithstanding any other provision in these rules, a dentist shall initiate and regulate the administration of nitrous oxide inhalation analgesia when used in combination with anxiolysis. ( )

02. Personnel. A patient sedated for anxiolytic purposes in the dental office shall be monitored by an assistant trained in basic life support to observe appropriate physiologic parameters and assist in any support or resuscitation measures required. ( )

056. LOCAL ANESTHESIA (RULE 56).
Persons licensed to practice dentistry and dental hygiene in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer local anesthesia to patients. Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. ( )

057. NITROUS OXIDE INHALATION ANALGESIA (RULE 57).
Persons licensed to practice dentistry and dental hygiene and dental assistants certified in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer nitrous oxide inhalation analgesia to patients. Nitrous oxide inhalation analgesia when used in combination with other sedative agents may produce an alteration of the state of consciousness in a patient to the level of conscious sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of conscious sedation, deep sedation or general anesthesia. ( )

01. Patient Safety. In connection with the administration of nitrous oxide inhalation analgesia, a dentist shall: ( )

a. Evaluate the patient to insure that the patient is an appropriate candidate for nitrous oxide inhalation analgesia; ( )

b. Insure that any patient under nitrous oxide inhalation analgesia shall be monitored for such matters as response to verbal stimulation, oral mucosal color and vital signs; ( )

c. Insure that a second person shall be on the office premises who can immediately respond to any request from the person administering the nitrous oxide inhalation analgesia; and ( )

d. Insure that a qualified person is continuously monitoring the patient. ( )

02. **Required Facilities and Equipment**. Dental offices in which nitrous oxide sedation is administered to patients shall, at a minimum and in addition to emergency medications, maintain appropriate facilities and have equipment on site for immediate use as follows: ( )

a. A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; ( )

b. An operating room sufficiently large to accommodate the patient and allow for delivery of appropriate care in an emergency situation; ( )

c. Suction equipment capable of aspirating gastric contents from the mouth and pharynx; ( )

d. A portable oxygen delivery system including full face masks and a bag-valve mask device capable of delivering positive pressure, oxygen-enriched ventilation to the patient; and ( )

e. An appropriately sized measuring device for taking a patient's blood pressure. ( )

03. **Personnel**. For nitrous oxide administration, personnel shall include: ( )

a. An operator; and ( )

b. An assistant trained in basic life support to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required (the operator and the assistant may be the same person). ( )

c. Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in periodic reviews of office emergency protocol. ( )

~~056~~058. -- 059.(RESERVED).

060. ADMINISTRATION OF CONSCIOUS SEDATION (RULE 60).
Dentists licensed in the state of Idaho cannot use conscious sedation in the practice of dentistry unless they have obtained the proper conscious sedation permit from the Idaho State Board of Dentistry ~~*by conforming with the following conditions:*~~. A conscious sedation permit may be either limited or comprehensive. A limited conscious sedation permit authorizes dentists to administer conscious sedation by either enteral or combination inhalation-enteral routes of administration. A comprehensive conscious sedation permit authorizes a dentist to administer conscious sedation by enteral, combination inhalation-enteral or parenteral routes of administration. A dentist shall not administer conscious sedation to children under eighteen (18) years of age unless they have qualified for and been issued a comprehensive conscious sedation permit. ~~*(4-5-00)*~~( )

01. Requirements for a Limited Conscious Sedation Permit. To qualify for a limited conscious sedation permit, a dentist applying for a permit must complete training in the use and administration of conscious sedation drugs to a level consistent with that prescribed in Part I and Part III of the American Dental Association's "ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as incorporated in Section 004 in these rules. The five (5) year requirement regarding the required training for a limited conscious sedation permit shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. To obtain a limited conscious sedation permit, a dentist must provide certification of the following: ( )

a. Completion of an American Dental Association accredited post-doctoral training program within five (5) years of the date of application for a limited conscious sedation permit that included documented training of a minimum of eighteen (18) hours of didactic education plus twenty (20) clinically-oriented experiences which provided competency in enteral and combination inhalation-enteral conscious sedation. Clinically-oriented experiences may include either supervised administration or group observations on patients undergoing enteral or combination inhalation-enteral conscious sedation; or ( )

b. Completion of a Board of Dentistry approved course of instruction within five (5) years of the date of application for a limited conscious sedation permit that included documented training of a minimum of eighteen (18) hours of didactic education plus twenty (20) clinically-oriented experiences which provided competency in enteral and combination inhalation-enteral conscious sedation. Clinically-oriented experiences may include either supervised administration or group observations on patients undergoing enteral or combination inhalation-enteral conscious sedation; and ( )

c. Proof of completion and current certification of Advanced Cardiac Life Support training or its equivalent. ( )

0~~*1*~~2. ~~*General*~~ Requirements for a Comprehensive Conscious Sedation Permit. A dentist applying for a permit to administer comprehensive conscious sedation shall provide proof that the dentist has received formal training and certification in the use of conscious sedation drugs as described in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," ~~*as referred to in Subsection 004.01.b.*~~ published by the American Dental Association and incorporated by reference into these rules within the five (5) year period

immediately prior to the date of application for a comprehensive conscious sedation permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application ~~*or to applicants who verify that they have regularly administered conscious sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of conscious sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered conscious sedation*~~. The formal training program shall: ~~*(4-2-03)*~~(____)

a. Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (4-5-00)

b. Consist of a minimum of sixty (60) hours didactic education and twenty (20) hours patient contact. Patient contact includes the administration of the intravenous (IV) sedation and management by the participant from induction through emergence. (3-18-99)

c. Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received. (3-18-99)

d. In addition, the dentist must show proof of current certification of Advanced Cardiac Life Support training or its equivalent. (3-15-02)

03. General Requirements for Limited and Comprehensive Conscious Sedation Permits. (____)

~~***02***~~**a.** **Facility Requirements**. The dentist must have a properly equipped facility for the administration of conscious sedation staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Idaho State Board of Dentistry. (3-18-99)

~~***03***~~**b.** **Personnel**. For conscious sedation, the minimum number of personnel shall be two (2) including: (10-1-87)

~~***a***~~i. The operator; and (10-1-87)

~~***b***~~ii. An assistant trained to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required. (10-1-87)

~~***c***~~iii. Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (3-18-99)

~~***04***~~**c.** **Permit Renewal**. Renewal of the permit will be required every five (5) years in

conjunction with the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours continuing education in conscious sedation will be required to renew a permit. A fee shall be assessed to cover administrative costs. (4-2-03)

~~05~~**d.** **Reinstatement**. A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in conscious sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (4-2-03)

~~055~~061.GENERAL ANESTHESIA AND DEEP SEDATION (RULE ~~55~~61).
Dentists licensed in the state of Idaho cannot use general anesthesia or deep sedation techniques in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)

01. General Requirements. A dentist applying for a permit to administer general anesthesia and deep sedation shall provide proof that the dentist: (10-1-87)

a. Has completed a minimum of one (1) year of advance training in anesthesiology and related academic subjects beyond the undergraduate dental school level within the five (5) year period immediately prior to the date of application for a permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application ~~*or to applicants who verify that they have regularly administered general anesthesia or deep sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of general anesthesia or deep sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered general anesthesia or deep sedation*~~. This training is described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as ~~*referred to in Subsection 004.01.b.*~~ incorporated by reference in Section 004 of these rules; or ~~*(4-2-03)*~~( )

b. Is a diplomate of the American Board of Oral and Maxillofacial Surgery; or (10-1-87)

c. Is a member of the American Association of Oral and Maxillofacial Surgeons; or (10-1-87)

d. Is a Fellow of the American Dental Society of Anesthesiology; and (4-5-00)

e. Has current Certification of Advanced Cardiac Life Support Training or its equivalent; and (3-15-02)

f. Has an established protocol or admission to a recognized hospital. (3-18-99)

02. Facility Requirements. The dentist must have a properly equipped facility for the

administration of general anesthesia, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Board. The Board adopts the standards incorporated by reference in Section 004 of these rules, regarding approval of equipment within the facility as set forth by the American Association of Oral and Maxillofacial Surgeons in their office anesthesia evaluation manual ~~*(see Subsection 004.01.a.)*~~. ~~*(3-15-02)*~~( )

03. Personnel. For general anesthesia and deep sedation techniques, the minimum number of personnel shall be three (3) including: (10-1-87)

a. A qualified person to direct the sedation as ~~*described*~~ specified in ~~*Subsections 055.01.a. through 055.01.f.*~~ Section 061 of this rule; and ~~*(3-18-99)*~~( )

b. A qualified person whose primary responsibilities are observation and monitoring of the patient and who has documented current CPR certification; and (3-18-99)

c. An assistant for the operator who has documented current CPR certification. (3-18-99)

04. Conscious Sedation. A dentist holding a permit to administer general anesthesia under this rule may also administer conscious sedation. (3-18-99)

05. Permit Renewal. Renewal of the permit will be required every five (5) years in conjunction with the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours of continuing education in general anesthesia and deep sedation techniques will be required to renew a permit. A fee shall be assessed to cover administrative costs. (4-2-03)

06. Reinstatement. A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in general anesthesia and deep sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (4-2-03)

~~*061*~~062.USE OF OTHER ANESTHESIA PERSONNEL (RULE 6~~*1*~~2).
Dentists performing dental procedures in a dental office who utilize the services of an anesthesiologist, a certified registered nurse anesthetist (CRNA), or another dentist with an anesthesia permit, must possess an anesthesia permit required under these rules for the level of anesthesia being provided to the patient. (4-5-00)

~~*062*~~063.INCIDENT REPORTING (RULE 6~~*2*~~3).
Any anesthesia permit holder shall report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom conscious sedation or general anesthesia was administered. (3-18-99)

~~063~~064.SUSPENSION, REVOCATION OR RESTRICTION OF ANESTHESIA PERMIT (RULE 6~~3~~4).
The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict an anesthesia a permit issued pursuant to Sections 0~~55~~60 and 06~~0~~1 of these rules. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. (3-18-99)

065. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD (RULE 65).
in any matter under review or in any proceeding being conducted in which the board must determine the degree of sedation or level of consciousness of a patient, the Board may base its findings or conclusions on, among other matters, The following: ( )

01. Medication and Dosage. The type and dosage of medication(s) that was administered to the patient as well as the route of administration of the medication(s); and ( )

02. Expected Results. The result that can reasonably be expected from the medication(s) administered when considering the physical and psychological status of the patient. ( )

~~064~~066. -- 999.(RESERVED).

HEALTH AND WELFARE

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0503

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-912(4), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 7, 2005, Idaho Administrative Bulletin, Volume 05-9, pages 185 through 189.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: There is no fiscal impact on the state general fund as the result of these administrative rule changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael J. Sheeley, Executive Director, Idaho State Board of Dentistry, at (208) 334-2369.

DATED this 24th day of October, 2005.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
708½ W. Franklin Street
Boise, Idaho 83702
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-912(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 September 21, 2005.

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:

Background Information: The Board has approximately 2700 dentist and dental hygienist licensees who are required to annually renew their licenses, including payment of a license renewal fee. The statutory deadline for renewal of a dental hygiene license is April 1st of each year and the statutory deadline for renewal of a dental license is October 1st of each year. The Board mails renewal applications to all licensees approximately thirty (30) days prior to the renewal deadline. License renewal fees are deposited to the Board's dedicated fund and are used to fund the Board's operation and regulatory functions.

Justification: The renewal of dental and dental hygiene licenses is a very labor intensive and expensive effort. The Board's staff (2.75 positions) spends significant amounts of time during the months of March, April, September and October processing license renewals. Aside from mailing the renewal applications, the Board also mails a notice to each licensee who fails to renew by the statutory deadline and, in addition, mails a certified letter to each licensee who fails to renew by the conclusion of the thirty (30) day grace period. The proposed biennial licensing system would allow the Board to stagger the renewal of dental and dental hygiene licenses so that only one (1) renewal would occur in each calendar year. This would theoretically reduce staff time and costs associated with license renewals by 50%. Other medical boards in Idaho renew licenses on a multiple year basis. Because a change to biennial licensing would also require amendments to the Board's statute, these proposed rules would not be effective until July 1, 2006.

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

This rule does not impose or increase the existing license renewal fees. This rule proposes to change the license renewal cycle from annual to biennial, with the result being that every license will be effective for two (2) years rather than the current one (1) year period. The rule proposes to increase the current annual license fees to reflect the longer effective period of the proposed two (2) year license. Under the proposal, an active status dental hygienist will pay $140 for a two (2) year license as opposed to currently paying $70.00 for a one (1) year license. In effect, the current license fees will not increase, but the fee amount will be larger because it is paid every two (2) years rather than yearly.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of the proposed rulemaking was previously provided to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, Idaho Board of Dentistry, at (208) 334-2369.

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 September 28, 2005.

DATED this 26th day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

012. LICENSE AND APPLICATION FEES (RULE 12).
The ~~*annual*~~ license fees and application fees shall be as follows: ~~*(7-1-93)*~~(____)

01. Application Fees for Dentists: (7-1-91)

a. General: (3-18-99)

i. By examination -- one hundred dollars ($100). (3-18-99)

ii. By credentials -- six hundred dollars ($600). (3-18-99)

b. Specialty: (7-1-91)

i. By examination -- one hundred dollars ($100). (7-1-91)

ii. By credentials -- six hundred dollars ($600). (3-18-99)

02. Application Fees for Dental Hygienists: (7-1-91)

a. By examination -- fifty dollars ($50). (7-1-91)

b. By credentials -- one hundred and fifty dollars ($150). (7-1-92)

03. ~~***Annual***~~ **Biennial License Fees for Dentists**: ~~*(3-18-99)*~~(____)

a. Active -- ~~*one*~~ three hundred ~~*and fifty*~~ dollars ($~~*15*~~300). ~~*(3-18-99)*~~(____)

b. Inactive -- ~~*seventy-five*~~ one hundred and fifty dollars ($~~*75*~~150). ~~*(7-1-91)*~~(____)

c. Specialty -- ~~*one*~~ three hundred ~~*and fifty*~~ dollars ($~~*15*~~300). ~~*(3-18-99)*~~(____)

04. ~~***Annual***~~ **Biennial License Fees for Hygienists**: ~~*(3-18-99)*~~(____)

a. Active -- ~~*seventy*~~ one hundred and forty dollars ($~~*7*~~140). ~~*(3-18-99)*~~(____)

b. Inactive -- ~~*forty*~~ eighty dollars ($~~*4*~~80). ~~*(7-1-91)*~~(____)

05. Application Fees for General Anesthesia and Conscious Sedation Permits: (4-2-03)

a. Initial Application -- three hundred dollars ($300). (4-2-03)

b. Renewal Application -- three hundred dollars ($300). (4-2-03)

c. Reinstatement Application -- three hundred dollars ($300). (4-2-03)

013. Fees -- General (Rule 13).
A license shall not be issued or renewed unless the fee is paid. Application fees are not refunded. License fees shall be prorated from date of licensure to the next ~~*annual*~~ biennial renewal date. ~~*(7-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

029. DENTAL HYGIENISTS - LICENSE ENDORSEMENTS (RULE 29).
Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, and these rules, the Board may grant license endorsements to qualified dental hygienists as follows: (4-6-05)

01. Extended Access Dental Hygiene Endorsement. Upon application, the Board may grant an extended access dental hygiene endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: (4-6-05)

a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access dental hygiene endorsement; (4-6-05)

b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school; (4-6-05)

c. The person has not been disciplined by the Board or another licensing authority

upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care program. (4-6-05)

02. Extended Access Dental Hygiene Endorsement Exception. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care program in this state shall be granted an extended access dental hygiene endorsement without being required to satisfy the experience requirements specified in this rule. (4-6-05)

03. Volunteer Dental Hygiene Services. A person holding an unrestricted active status dental hygienist's license issued by the Board may provide dental hygiene services in an extended access oral health care program without being issued an extended access dental hygiene license endorsement under the following circumstances: (4-6-05)

a. The dental hygiene services must be performed in an extended access oral health care program under the supervision of a dentist who is employed or retained by or is a volunteer for the program; (4-6-05)

b. The dental hygiene services performed shall be limited to oral health screening, preparation of health history, fluoride treatment, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventative agents, the application of pit and fissure sealants with recommendation that patient will be seen by a dentist and preventive dental health instruction; (4-6-05)

c. The dental hygienist must perform the dental hygiene services on a volunteer basis and shall not accept any form of remuneration for providing the services; and (4-6-05)

d. The dental hygienist may not provide dental hygiene services under this provision for more than five (5) days within any calendar month. (4-6-05)

04. Renewal. Upon payment of the appropriate ~~*annual*~~ license fee and completion of required continuing education credits specified for a dental hygiene license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene shall also be entitled to renewal of a dental hygiene license endorsement ~~*upon April 1 of each year*~~ for the effective period of the license. An endorsement shall immediately expire and be cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board or upon a person's failure to complete the required continuing education credits.
~~*(4-6-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

050. CONTINUING EDUCATION FOR DENTISTS (RULE 50).
Effective October 1994, renewal of any active dental license will require evidence of completion of continuing education or volunteer dental practice that meets the following requirements.

(4-6-05)

01. Requirements: (3-18-99)

a. All active dentists must hold a current CPR card. (7-1-93)

b. All active dentists shall acquire ~~*fifteen*~~ thirty (~~*15*~~30) credits of continuing education in each biennial renewal ~~*year*~~ period. One (1) credit is defined as one (1) hour of instruction. ~~*(7-1-93)*~~( )

c. Continuing education must be oral health/health-related for the professional development of a dentist. The ~~*fifteen*~~ thirty (~~*15*~~30) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, and viewing of videotape or listening to other media devoted to dental education.

~~*(3-18-99)*~~( )

d. A dentist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental practice performed during the biennial renewal ~~*year*~~ period up to a maximum of ~~*five*~~ ten (~~*5*~~10) credits.

~~*(4-6-05)*~~( )

e. Any person who is licensed as an active status dentist during any biennial licensing period shall be required at the time of the next successive renewal period to report a prorated amount of continuing education credits as specified by the Board. ( )

02. Documentation. In conjunction with ~~*the annual*~~ license renewal, the dentist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental practice performed and certify that the minimum requirements were completed in the ~~*one (1) year*~~ biennial licensing period. ~~*(4-6-05)*~~( )

051. CONTINUING EDUCATION FOR DENTAL HYGIENISTS (RULE 51).
Effective April 1994, renewal of any active dental hygiene license or dental hygiene license endorsement will require evidence of completion of continuing education or volunteer dental hygiene practice that meets the following requirements. (4-6-05)

01. Requirements for Renewal of an Active Status Dental Hygiene License: (4-6-05)

a. All active dental hygienists must hold a current CPR card. (6-2-92)

b. All active dental hygienists shall acquire ~~*twelve*~~ twenty-four (~~*1*~~24) credits of continuing education in each biennial renewal ~~*year*~~ period. One (1) credit is defined as one (1) hour of instruction. ~~*(6-2-92)*~~( )

c. Continuing education must be oral health/health-related education for the professional development of a dental hygienist. The ~~*twelve*~~ twenty-four (~~*1*~~24) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, viewing of videotape or listening to other media devoted to dental hygiene education.

~~*(3-18-99)*~~( )

d. A dental hygienist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental hygiene practice performed during the biennial renewal ~~*year*~~ period up to a maximum of ~~*five*~~ ten (~~*5*~~10) credits. ~~*(4-6-05)*~~( )

e. Any person who is licensed as a dental hygienist during any biennial licensing period shall be required at the time of the next successive renewal period to report a prorated amount of continuing education credits as specified by the Board. ( )

02. Requirements for Renewal of an Extended Access Dental Hygiene License Endorsement. In addition to any other continuing education requirements for renewal of a dental hygiene license, a person granted an extended access dental hygiene license endorsement shall complete ~~*six*~~ twelve (~~*6*~~12) credits of continuing education in each biennial renewal ~~*year*~~ period in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children. Any person who is issued an extended access dental hygiene license endorsement during any biennial licensing period shall be required at the time of the next renewal period to report a prorated amount of the continuing education credits required in Section 051 of this rule, as specified by the Board. ~~*(4-6-05)*~~( )

03. Documentation. In conjunction with ~~*the annual*~~ license and endorsement renewal, the dental hygienist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental hygiene practice performed and certify that the minimum requirements were completed in the ~~*one (1) year*~~ biennial license period. ~~*(4-6-05)*~~( )

HEALTH AND WELFARE

IDAPA 22 - BOARD OF MEDICINE

22.01.05 - RULES GOVERNING LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

DOCKET NO. 22-0105-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-2206; 54-2207; 54-2213; 54-2214; 54-2215; 54-2217; 54-2218; 54-2219; and 54-2220, 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 changes are necessary to carry out statutory provisions of House Bills 191 and 192 as adopted by the 2005 Legislature and changes in the "Physical Therapy Practice Act", Title 54, Chapter 22, Idaho Code. The pending rule changes amend the existing language relating to the practice of physical therapy to define the term "physical therapy licensure board"; remove language referencing an advisory committee; provide for a physical therapy licensure board; provide for continuing education requirements for renewal of active licenses; require proof of completion of continuing education requirements; and make other changes to update and clarify rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 433 through 445.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 16th day of November, 2005.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
Physical Address: 1755 Westgate Drive, Suite 140, Boise, Idaho 83704

BOARD OF MEDICINE ***Docket No. 22-0105-0501***
Licensure of Physical Therapists and PT Assistants ***PENDING RULE***

Mailing Address: PO Box 83720, Boise, Idaho 83720-0058
Telephone (208) 327-7000, Fax (208) 327-7005

The Following Notice Was Published With The 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 54-2206; 54-2207; 54-2213; 54-2214; 54-2215; 54-2217; 54-2218; 54-2219; and 54-2220, 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 19, 2005.

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 carry out statutory provisions of House Bills 191 and 192 as adopted by the 2005 Legislature and changes in the "Physical Therapy Practice Act", Title 54, Chapter 22, Idaho Code. The proposed rule changes amend the existing language relating to the practice of physical therapy to define the term "physical therapy licensure board"; remove language referencing an advisory committee; provide for a physical therapy licensure board; provide for continuing education requirements for renewal of active licenses; require proof of completion of continuing education requirements; and make other changes to update and clarify rules.

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

N/A. The fee schedule has not been changed. Authority for imposition of the existing fees is found in Section 54-2213(2), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rule making: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted, however, members of the Physical Therapy Advisory Committee and representatives from the Idaho Physical Therapy Association participated in the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 26, 2005.

DATED this 5th day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).
The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, ~~*Statehouse Mail*~~ P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) ~~*377*~~327-7005. The Board's web address is The Board's web address is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST.
~~*(3-13-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

01. Board. The Idaho State Board of Medicine. (3-13-02)

02. ~~*Committee*~~ Licensure Board. The Physical Therapy ~~*Advisory Committee*~~ Licensure Board. ~~*(3-13-02)*~~(____)

03. Director. The executive director of the Idaho State Board of Medicine. (3-13-02)

04. Licensee. ~~*Persons*~~ An individual licensed in accordance with Title 54, Chapter 22, Idaho Code. ~~*(3-13-02)*~~(____)

05. Physical Therapist. An ~~*person*~~ individual who meets all the requirements of Title 54, Chapter 22, Idaho Code, holds an active license and who engages in the practice of physical therapy. ~~*(3-13-02)*~~(____)

06. Physical Therapist Assistant. An ~~*person*~~ individual who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. ~~*(3-13-02)*~~(____)

07. Practice of Physical Therapy. The exercise of the profession of physical therapy by a ~~*person*~~ licensee who engages in the following health care activities: ~~*(3-13-02)*~~(____)

a. Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disability or other health and movement related conditions in order to determine a diagnosis for physical therapy and prognosis for physical therapy, plan of therapeutic intervention, and to assess the ongoing effects of intervention. (3-13-02)

b. Alleviating impairments and functional limitations by designing, implementing and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional mobility training in self-care and in-home, community or work reintegration; manual therapy; assistive, adaptive, protective and supportive devices and equipment; bronchopulmonary hygiene; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient related instruction; and to reduce the risk of injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations. The practice of physical therapy shall not include the use of radiology, surgery or medical diagnosis of disease. (3-13-02)

c. Engaging in administration, consultation, testing, education and research as related to ~~*Subsection 010.07.a. and 010.07.b. of*~~ Title 54, Chapter 22, Idaho Code, and these rules. ~~*(3-13-02)*~~(____)

08. Supportive Personnel. An ~~*person*~~ individual, or ~~*persons*~~ individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. ~~*(3-13-02)*~~(____)

09. Non-Treatment Patient Related Tasks. Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when safety and effective treatment would so require. (3-13-02)

10. Routine Physical Therapy Tasks. Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. (3-13-02)

11. Testing. (3-13-02)

a. Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: (3-13-02)

i. Electrodiagnostic and electrophysiological measurements; (3-13-02)

ii. Assessment or evaluation of muscle strength, force, endurance and tone; (3-13-02)

iii. Reflexes; (3-13-02)

iv. Automatic reactions; (3-13-02)

v. Posture and body mechanics; (3-13-02)

vi. Movement skill and accuracy; (3-13-02)

vii. Joint range of motion and stability; (3-13-02)

viii. Sensation; (3-13-02)

ix. Perception; (3-13-02)

x. Peripheral nerve function integrity; (3-13-02)

xi. Locomotor skills; (3-13-02)

xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; (3-13-02)

xiii. Limb volume, symmetry, length and circumference; (3-13-02)

xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; (3-13-02)

xv. Vital signs such as pulse, respiratory rate, and blood pressure; (3-13-02)

xvi. Activities of daily living; and the physical environment of the home and work place; and (3-13-02)

xvii. Pain patterns, localization and modifying factors; and (3-13-02)

xviii. Photosensitivity. (3-13-02)

b. Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. (3-13-02)

12. **Individuals**. Human beings. (3-13-02)

13. **Functional Mobility Training**. Includes gait training, locomotion training, and posture training. (3-13-02)

14. Manual Therapy. Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: (3-13-02)

a. Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; (3-13-02)

b. Inducing relaxation; (3-13-02)

c. Improving contractile and non-contractile tissue extensibility; and (3-13-02)

d. Improving pulmonary function. (3-13-02)

15. Physical Agents or Modalities. Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. (3-13-02)

16. General Supervision. A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. (3-13-02)

17. Direct Supervision. A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. (3-13-02)

18. Direct Personal Supervision. A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. (3-13-02)

19. Telecommunications. Any means of transferring audio, video, or data information from a distant location for direction of the treatment plan of care. (3-13-02)

20. Supervising Physical Therapist. ~~*The*~~ A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient~~,~~. ~~*or s*~~Such physical therapist's designation of another licensed physical therapist~~,~~ if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. ~~*(3-13-02)*~~( )

21. Licensure. The act of acquiring legal certification to practice in Idaho as a physical therapist or physical therapist assistant in accordance with Title 54, Chapter 22, Idaho Code, and these rules. ~~*(3-13-02)*~~( )

22. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: (3-13-02)

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or (3-13-02)

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or (3-13-02)

c. An Accrediting agency recognized by the U.S. Commissioner of Education, the Council on Postsecondary Accreditation, or both. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

016. SUPERVISION (RULE 16).
A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. (3-13-02)

01. Procedures and Interventions Performed Exclusively by Physical Therapist. The following procedures and interventions shall be performed exclusively by a physical therapist: (3-13-02)

a. Interpretation of a referral for physical therapy if a referral has been received. (3-13-02)

b. Performance of the initial patient evaluation and problem identification including a diagnosis for physical therapy and a prognosis for physical therapy. (3-13-02)

c. Development or modification of a treatment plan of care which is based on the initial evaluation and which includes long-term and short-term physical therapy treatment goals. (3-13-02)

d. Assessment of the competence of physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel to perform assigned procedures, interventions and routine tasks. (3-13-02)

e. Selection and delegation of appropriate portions of treatment procedures, interventions and routine physical therapy tasks to the physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel. (3-13-02)

f. Performance of a re-evaluation when any change in a patient's condition occurs that is not consistent with the physical therapy treatment plan of care, patient's anticipated progress, and physical therapy treatment goals. (3-13-02)

g. Performance and documentation of a discharge evaluation and summary of the physical therapy treatment plan. (3-13-02)

02. Supervision of a Physical Therapist Assistant. A physical therapist assistant shall be supervised by a physical therapist by no less standard than general supervision. (3-13-02)

a. A physical therapist assistant shall not change a procedure or intervention unless such change of procedure or intervention has been included within the treatment plan of care as set forth by a physical therapist. (3-13-02)

b. A physical therapist assistant may not continue to provide treatment as specified under a treatment plan of care if a patient's condition changes such that further treatment necessitates a change in the established treatment plan of care unless the physical therapist assistant has consulted with the supervising physical therapist prior to the patient's next appointment for physical therapy, and a re-evaluation is completed by the supervising physical therapist. (3-13-02)

c. A patient re-evaluation must be performed and documented by the supervising physical therapist a minimum of every five (5) visits or once a week if treatment is performed more than once per day. (3-13-02)

d. A physical therapist assistant may refuse to perform any procedure, intervention, or task delegated by a physical therapist when such procedure, intervention, or task is beyond the physical therapist assistant's skill level or scope of practice standards. (3-13-02)

e. A physical therapist shall not be required to co-sign any treatment related documents prepared by a physical therapist assistant, unless required to do so in accordance with law, or by a third-party. (3-13-02)

03. Supervision of Supportive Personnel. Any routine physical therapy tasks performed by supportive personnel shall require direct personal supervision. (3-13-02)

04. Supervision of Physical Therapy and Physical Therapist Assistant Students. Supervision of physical therapy students and physical therapist assistant students shall require ~~*a degree of supervision of no less than*~~ direct supervision. ~~*(3-13-02)*~~(____)

a. A physical therapy student shall only be supervised by the direct supervision of a physical therapist. (3-13-02)

b. A physical therapy student shall be required to sign all treatment notes with the designation "SPT" after their name, and all such signatures shall require the co-signature of the supervising physical therapist. (3-13-02)

c. A physical therapist assistant student shall be required to sign all treatment notes with the designation "SPTA" after their name, and all such signatures shall require the co-signature of the supervising physical therapist or supervising physical therapist assistant. (3-13-02)

05. Supervision Ratios. (3-13-02)

a. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants providing such treatment be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any

physical therapy practice or site. (3-13-02)

b. At no time during the treatment of a patient or patients for physical therapy shall the number of supportive personnel performing routine physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-13-02)

c. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapy students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-13-02)

d. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistant students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-13-02)

e. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants, physical therapy students, physical therapist assistants students, and supportive personnel, or a combination thereof, performing delegated supervised physical therapy or routine physical therapy tasks be more than three (3) times in number of such physical therapist(s) providing physical therapy treatment at any physical therapy practice or site; nor shall the number of physical therapist assistant students or supportive personnel, or a combination thereof, performing delegated and supervised physical therapy tasks or routine physical therapy tasks be more than twice in number of such physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-13-02)

017. -- 019. (RESERVED).

020. PHYSICAL THERAPY ~~*ADVISORY COMMITTEE*~~ <u>LICENSURE BOARD</u> (RULE 20).

Pursuant to Section 54-2205, Idaho Code, ~~*the committee shall work in conjunction with the board to perform the following duties and functions:*~~ <u>there is hereby established a physical therapy licensure board to the Idaho State Board of Medicine. The licensure board shall work in conjunction with the Board to enforce the provisions of Title 54, Chapter 22, Idaho Code, and shall perform duties and functions assigned by the Board. The members of the licensure board shall be selected by the Board after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho physical therapy association. A majority of licensure board members present shall constitute a quorum for the conduct of licensure board business. The director or the director's designee shall keep written minutes of the licensure board's meetings, such minutes to be signed by the licensure board chairperson, and submitted to the director.</u>

~~*(3-13-02)*~~<u>( )</u>

01. ~~***Meetings****. The committee shall meet not less than two (2) times per year. A majority of committee members present shall constitute a quorum for the conduct of committee business. The director or the director's designee shall keep written minutes of the committees meetings, such minutes to be signed by the committee chairperson, and submitted to the director.*~~

Membership. The licensure board shall consist of five (5) members appointed by the Board, three (3) of whom shall be licensed physical therapists, one (1) of whom may be a licensed physical therapist assistant or a licensed physical therapist, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of health services. All members of the licensure board shall be residents of Idaho at the time of their appointment and for their term of service. The individuals appointed to the licensure board who are required to be licensed under Title 54, Chapter 22, Idaho Code, shall have been engaged in rendering physical therapy or physical therapy assistant care services, respectively, to the public, in teaching, or in research in physical therapy or physical therapy assistant care services, respectively, for at least three (3) years immediately preceding their appointments. All members, excepting the public member, shall at all times be holders of valid licenses and be in good standing without restriction upon such license for the practice of physical therapy in Idaho. ~~*(3-13-02)*~~(____)

02. ~~***Chairperson****. Each committee appointee shall serve as chairperson of the committee during the final year of their appointed and reappointed term. In the event of a vacancy in the chairpersonship, for any reason, the committee shall, by majority vote, select a chairperson. If a chairperson cannot be selected by majority vote, then the director shall appoint an appointee of the committee as chairperson. Such term, whether appointed by the director, or selected by majority vote of the committee, shall cease on July 1 of the year following such appointment or selection. The board shall provide for the timely orientation of a new appointee to the committee regarding the duties and functions of the committee as set forth in this chapter and Chapter 22, Title 54, Idaho Code.~~ **Appointment**. The Board shall appoint two (2) licensure board members for a term of one (1) year; two (2) members for a term of two (2) years; and one (1) member for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no individual shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in Section 54-2205, Idaho Code. ~~*(5-3-03)*~~(____)

a. Chairperson. On and after January 1, 2006, and annually thereafter, the licensure board shall hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. The licensure board shall meet annually. Other meetings may be convened at the call of the chairman or upon the written request of any two (2) licensure board members. (____)

b. Orientation. The Board shall provide for the timely orientation of new appointees to the licensure board regarding the duties and functions of the licensure board as set forth in Title 54, Chapter 22, Idaho Code, and these rules. (____)

c. Impartiality. Licensure board members shall disqualify themselves and upon the motion of any interested party may, upon proper showing, be disqualified in any proceeding in which they have an actual conflict of interest or bias that interferes with their fair and impartial service. (____)

d. Removal. The Board may remove any member of the licensure board from the licensure board who is guilty of malfeasance, misfeasance or nonfeasance. (____)

e. Compensation. Each member of the licensure board shall be compensated as provided in Section 59-509(h), Idaho Code. ( )

03. Evaluation of Applicant Qualifications. The ~~*committee*~~ licensure board shall review all applications for licensure referred to the ~~*committee*~~ licensure board by the director, and shall make a recommendation to the Board regarding any applicant's application for licensure, including character and fitness, education, training, and any other qualifications deemed relevant by the Board or ~~*committee*~~ licensure board for licensure. ~~*(3-13-02)*~~( )

04. Examinations. The ~~*committee*~~ licensure board shall ~~*administer*~~ review all authorized examinations of applicants for licensure, ~~*by advising*~~ advise the Board of acceptable national examinations for licensure, and recommend~~*ing*~~ to the Board appropriate passing scores for such examinations. ~~*(3-13-02)*~~( )

a. An applicant applying for licensure by examination who fails any Board authorized examination may retake a Board authorized examination one (1) additional time without reapplication for licensure, provided that the second attempt occurs within six (6) months from the Board's notification of the first failure. ~~*(5-3-03)*~~( )

b. If an applicant applying for licensure by examination has failed any Board authorized examination two (2) or more times, the ~~*committee*~~ licensure board shall make a determination if the applicant shall reapply for licensure or if additional clinical training or coursework is needed, and recommend to the Board such reapplication or such additional clinical training or coursework for such applicant. ~~*(5-3-03)*~~( )

c. If ~~*licensure is by endorsement, the minimum passing score for*~~ an applicant holds or has held an active valid license issued in another state of the United States pursuant to passing a required examination, the examination~~*, which*~~ must be substantially similar to a Board authorized examination~~*, required by the other state*~~ and the minimum passing score must be equal to or higher than the minimum passing score in Idaho for the same year. ~~*(5-3-03)*~~( )

05. Issuing and Renewing Licenses. If the requirements for licensure as set forth in Title 54, Chapter 22, Idaho Code, and these rules have been met, the ~~*committee*~~ licensure board shall issue and renew licenses, and submit such licenses to the director for distribution to the licensees, upon Board approval. ~~*(3-13-02)*~~( )

a. The ~~*committee*~~ licensure board shall examine any application for a license by a former licensee whose license has been expired for a period of three (3) consecutive years, and shall recommend to the Board whether such applicant can demonstrate competency in the practice of physical therapy, and recommend whether such applicant should be required to take an examination or remedial courses, or both, prior to issuance of a license. ~~*(5-3-03)*~~( )

06. Investigations and Discipline. The ~~*committee*~~ licensure board shall review all complaints received by the Board regarding ~~*a*~~ licensees. If the Board finds that probable cause exists to institute proceedings against the licensee and determines that the institution of proceedings against the licensee are appropriate, the ~~*committee*~~ licensure board shall serve as an advisor to the Board with such proceedings. ~~*(3-13-02)*~~( )

a. Proceedings instituted against such licensee shall be conducted in accordance with the procedures established in Title 54, Chapter 22, Idaho Code, Title 67, Chapter 52, Idaho Code, and Title 54, Chapter 18, Idaho Code. (3-13-02)

b. Upon any entering of findings of fact or conclusions of law entered by the Board or its designee, or prior to the signing of any stipulation and order, the ~~*committee*~~ licensure board shall review such findings of fact or conclusions of law, or stipulation and order rendered ~~*during*~~ following such proceedings and recommend to the Board the appropriate disciplinary action or penalty, as those disciplinary actions and penalties are set forth in Section 54-2220, Idaho Code. ~~*(3-13-02)*~~(____)

07. Maintenance of List. The ~~*committee*~~ licensure board shall maintain a current list of ~~*persons*~~ individuals licensed in accordance with Title 54, Chapter 22, Idaho Code, and these rules. Such list shall include the licensee's name, home and business addresses, home and business telephone numbers, and license number. Licensees shall notify the Board of any change of name, address or telephone number within thirty (30) days of such change. ~~*(3-13-02)*~~(____)

08. Rules. The ~~*committee*~~ licensure board may submit proposed rules to the Board, and shall review all proposed rules relating to these rules governing the licensure of physical therapists and physical therapist assistants contemplated by the Board prior to their adoption, and provide comment and recommendation thereon. ~~*(3-13-02)*~~(____)

09. Information. In conjunction with the Board and director, the ~~*committee*~~ licensure board shall provide such information as follows: ~~*(3-13-02)*~~(____)

a. At least thirty (30) days prior to their effect, information shall be provided to all licensees regarding changes in Title 54, Chapter 22, Idaho Code, and changes to these administrative rules. (3-13-02)

b. Information shall be provided to the general public, upon request, regarding the disciplinary proceeding process. (3-13-02)

c. At least annually, all licensees shall be provided information regarding any Board or attorney general interpretations of Title 54, Chapter 22, Idaho Code, or these administrative rules, and disciplinary actions taken or penalties assessed against a licensee, unless such disciplinary action is a censure or reprimand by informal admonition for minor misconduct in accordance with Section 54-2220(1), Idaho Code. ~~*(3-13-02)*~~(____)

021. -- 030. (RESERVED).

031. APPLICATION (RULE 31).
Each applicant shall submit a completed written application to the Board on forms provided by the Board together with ~~*an application and examination*~~ applicable fees. The application shall be verified under oath and shall require the following information: ~~*(3-13-02)*~~(____)

01. Education. The educational background of the ~~*application*~~ applicant; ~~*(3-13-02)*~~(____)

02. Evidence of Graduation. Evidence of graduation from a~~*n approved physical therapy curriculum; or an approved physical therapist assistant's curriculum*~~ nationally accredited school; ~~*(3-13-02)*~~(____)

03. Criminal Convictions. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (3-13-02)

04. ~~*Current*~~ Mental and Physical Status. The current mental and physical condition of the applicant together with disclosure of any previous serious physical or mental illness; ~~*(3-13-02)*~~(____)

05. Disciplinary Action. The disclosure of any disciplinary action against the applicant by any professional regulatory agency; (3-13-02)

06. License or Registration Denial. The disclosure of the denial of registration or licensure by any state or district regulatory body; (3-13-02)

07. References. Two (2) references from ~~*persons having*~~ individuals, other than relatives or individuals living with the applicant, who have at least two (2) years of personal knowledge of the applicant's character and ability to provide physical therapy; ~~*(3-13-02)*~~(____)

08. Photograph. An un-mounted photograph of the applicant, three inches by three inches (3" x 3"), taken not more than one (1) year prior to the date of application; and (3-13-02)

09. Other Information. Such other information as the Board and licensure board deem~~s~~ necessary to identify and evaluate the applicant's credentials. ~~*(3-13-02)*~~(____)

032. FEES (RULE 32).

01. Fee Table. (3-13-02)

a. The fee for the initial licensure of a physical therapist shall be one hundred and twenty dollars ($120) and the renewal fee shall be sixty-five dollars ($65). (5-3-03)

b. The fee for the initial licensure of a physical therapist assistant shall be eighty dollars ($80) and the renewal fee shall be forty-five dollars ($45). (5-3-03)

c. Initial licensure by examination. The ~~*examination*~~ fee for the initial licensure by examination of a physical therapist or a physical therapist assistant shall ~~*equal the cost of the examination plus*~~ include an administrative fee of forty dollars ($40). ~~*(3-13-02)*~~(____)

d. A reinstatement fee shall be thirty-five dollars ($35) and satisfactory proof of successful completion of the continuing education requirement set forth in Section 54-2213(2), Idaho Code, and these rules. ~~*(3-13-02)*~~(____)

02. Application Fees and Refunds. Necessary fees shall accompany all applications. Fees shall not be refundable. ~~*(3-13-02)*~~(____)

03. Extraordinary Expenses. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses. (3-13-02)

033. LICENSE RENEWAL (RULE 33).

01. License Renewal. Each license to practice as a physical therapist or physical therapist assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate.The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his or her license shall not deprive such ~~*person*~~ individual of the right to renewal, except as provided for herein and Section 54-2214, Idaho Code. ~~*(5-3-03)*~~( )

02. Time for Application. All applications for license renewal shall be received by the Board no later than June 30 of the year in which the license has expired and include satisfactory proof of successful completion of the continuing education requirement set forth in Section 54-2214, Idaho Code, and these rules. Applications received after June 30 of the year in which the license expires shall not deprive such ~~*person*~~ individual of the right to renewal, unless such license shall have been expired for a period equal to or exceeding three (3) consecutive years. ~~*(3-13-02)*~~( )

a. An application for renewal which has not been expired for a period of three (3) consecutive years, but which is received after June 30 of the year in which the license has expired, shall require a reinstatement fee of thirty-five dollars ($35) in addition to the renewal fee of sixty-five dollars ($65) for each lapsed year and satisfactory proof of successful completion of the continuing education requirement set forth in Section 54-2214, Idaho Code, and these rules. ~~*(5-3-03)*~~( )

b. An application for renewal of a license which has been expired for a period of three (3) consecutive years shall not be eligible for renewal, but shall require a re-application for a licensure, payment of a licensure fee, successful demonstration to the Board of competency in the practice of physical therapy and satisfactory proof of successful completion of the continuing education requirement set forth in Section 54-2214, Idaho Code, and these rules. The Board may require the applicant ~~*for licensure*~~ to take an examination or remedial courses, or both, prior to issuing a license. ~~*(5-3-03)*~~( )

034. CONTINUING EDUCATION REQUIREMENT (RULE 34).
On and after July 1, 2007, each applicant for renewal of a license shall, on or before the expiration of the license, submit an attestation that the applicant successfully completed not less than thirty-two (32) hours of continuing education for every two (2) years (biennial) period pursuant to Section 54-2213(2), Idaho Code. The Board, in its discretion, may require additional evidence as is necessary to verify compliance. ( )

01. Continuing Education Compliance Periods. Each two (2) year biennial continuing education compliance period shall extend for continuous two (2) year periods. ( )

02. Renewal Requirements. Every biennium, each licensee shall be required to

complete a minimum of thirty-two (32) hours of continuing education. No more than sixteen (16) hours of self-study or self directed study shall be used during each biennium. ( )

03. **Continuing Education Credit Hours**. Hours of continuing education credit may be obtained by attending and participating in a continuing education activity meeting the requirements herein pursuant to Section 54-2213(2), Idaho Code, and as hereby provided: ( )

a. No hours of continuing education shall be carried over into the next biennium. ( )

b. No hours of continuing education shall be repeated in the biennium. ( )

c. Licensees are responsible for the cost of continuing education. ( )

04. **Criteria for Continuing Education**. ( )

a. General Criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit: ( )

i. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee; ( )

ii. Pertains to subject matters integrally related to the practice of the profession; ( )

iii. Conducted by individuals who have specialized education, training and experience by reason they should be considered qualified concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The Board may request the documentation of the qualifications of presenters; ( )

iv. Fulfills stated program goals, objectives, or both; and ( )

v. Provides proof of attendance to licensees in attendance including: Date, location, course title, presenter(s); Number of program contact hours (One (1) contact hour usually equals one (1) hour of continuing education credit.); and Official signature or verification by program sponsor. ( )

b. Specific Criteria. Continuing education hours of credit may be obtained by: ( )

i. Presenting professional programs which meet the criteria listed in these rules. Two (2) hours of credit will be awarded for each hour of presentation by the licensee. A course schedule or brochure must be maintained for audit; ( )

ii. Providing official transcripts indicating successful completion of academic courses which apply to the field of physical therapy in order to receive the following continuing education credits: ( )

(1) One (1) academic semester hour = fifteen (15) continuing education hours of credit; ( )

(2) One (1) academic trimester hour = twelve (12) continuing education hours of credit; ( )

(3) One (1) academic quarter hour = ten (10) continuing education hours of credit. ( )

iii. Attending workshops, conferences, symposiums or electronically transmitted, live interactive conferences which relate directly to the professional competency of the licensee; ( )

iv. Authoring research or other activities which are published in a recognized professional publication. The licensee shall receive five (5) hours of credit per page; ( )

v. Viewing videotaped presentations if the following criteria are met: ( )

(1) There is a sponsoring group or agency; ( )

(2) There is a facilitator or program official present; ( )

(3) The program official may not be the only attendee; and ( )

(4) The program meets all the criteria specified in these rules; ( )

vi. Participating in home study courses that have a certificate of completion; ( )

vii. Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics; ( )

viii. Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics; and ( )

ix. Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics. ( )

05. Biennium Reporting Continuing Education. At the time of the biennium license renewal, each licensee shall be required to submit an attestation of successful completion of continuing education to the Board. ( )

06. Audit of Continuing Education Attestation. After each educational biennium, there shall be an audit of a random number of licensees' continuing education attestations. The selected licensee shall make available to the Board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information: ( )

a. Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)

and applicable credentials), and method of presentation; ( )

b. Number of contact hours for program attended; and ( )

c. Indication of the successful completion of the course. ( )

d. For auditing purposes, the licensee must retain the above information for two (2) years after the biennium has ended. ( )

07. Submitting False Reports or Failure to Comply. The Board may condition, limit, suspend, or refuse to renew the license of any individual whom the Board determines submitted a false report of continuing education or failed to comply with the continuing education requirements of these rule and Section 54-2213(2), Idaho Code, and these rules. ( )

08. Failure to Receive the Renewal Application. Failure to receive the renewal application shall not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal application and renewal fee. ( )

09. Continuing Education Waiver. A licensee shall be deemed to have complied with the continuing education requirements during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing physical therapist or physical therapist assistant. ( )

10. Continuing Education Exemption for Disability or Illness. The Board may, in individual cases involving disability or illness, grant exemptions of the educational requirements or extension of time within which to fulfill the same or make the required reports. No exemption or extension of time shall be granted unless the Board receives a written application and signed by the licensee and appropriate licensed health care practitioners. The Board may grant an exemption of the educational requirements for any period of time not to exceed one (1) calendar year from the onset of disability or illness. In the event that the disability or illness upon which an exemption has been granted continues beyond the period of exemption, the licensee must reapply for an extension of the exemption. The Board may, as a condition of any exemption granted, require the applicant to make up a certain portion or all of the educational requirements exempted by such methods as may be prescribed by the Board. ( )

03~~4~~5. DISCIPLINARY PENALTY (RULE 3~~4~~5).
If the Board finds, after instituting proceedings against a licensee, that disciplinary actions or penalties are warranted, the Board may impose a reasonable fine for each violation in an amount not to exceed five-hundred dollars ($500) for each violation, and may, in addition to such fine, assess reasonable costs and attorney's fees. (3-13-02)

03~~5~~6. CODE OF ETHICS (RULE 3~~5~~6).
Physical therapists and physical therapist assistants are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A and Appendix B to these rules. (3-13-02)

03~~6~~7. -- 999. (RESERVED).

HEALTH AND WELFARE

IDAPA 22 - BOARD OF MEDICINE

22.01.11 - RULES FOR THE LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO

DOCKET NO. 22-0111-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-4316, 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 changes are necessary to carry out statutory provisions of Section 54-4309, Idaho Code, as adopted by the 1991 Legislature to amend existing language relating to the proration of fees charged in conjunction with an initial application for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code, and make other changes to update and clarify rules.

Pursuant to Section 67-5228, Idaho Code, a clerical correction was made to the rule deleting three words in Subsection 034.04 and is being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 446 through 452.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 16th day of November, 2005.

Nancy M. Kerr, Executive Director, Idaho State Board of Medicine
Physical Address: 1755 Westgate Drive, Suite 140, Boise, Idaho 83704
Mailing Address: PO Box 83720, Boise, Idaho 83720-0058
Telephone (208) 327-7000, Fax (208) 327-7005

The Following Notice Was Published With The 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 54-4316, 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 19, 2005.

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 carry out statutory provisions of Section 54-4309, Idaho Code, as adopted by the 1991 Legislature to amend existing language relating to the proration of fees charged in conjunction with an initial application for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Section 54-4309 and 54-4310, Idaho Code, and make other changes to update and clarify rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A. The fee schedule has not been changed; there will be no increase in fees for respiratory therapists, polysomnographic trainees, technicians or technologists. Authority for imposition of the existing fees is found in Section 54-4311, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rule making: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted, however, members of the licensure board participated in the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 26, 2005.

DATED this 9th day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS. The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's web address is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. ~~*(3-16-04)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Applications. Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure or a temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. The application shall be verified and under oath and shall require documentation of the following information: ~~*(3-16-04)*~~( )

a. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; and (2-23-94)

b. The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (3-16-04)

c. The disclosure of the denial of registration or licensure by any state or district regulatory body; and (2-23-94)

d. Not less than two (2) certificates of recommendation from persons, other than relatives or individuals living with the applicant, who have personal knowledge of at least one (1) year of the applicant's character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (3-16-04)

e. One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

f. Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (3-16-04)

g. Evidence that applicant is no less than eighteen (18) years of age. (3-16-04)

h. The Board may, at its discretion, require the applicant to appear for a personal interview. (3-16-04)

02. Application for Respiratory Care Practitioner. (3-16-04)

a. Documentation of evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist (CRT) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (3-16-04)

b. Documentation that the applicant is licensed as a respiratory care practitioner, or the equivalent at the discretion of the Board, in another state, district or territory of the United States. (3-16-04)

c. Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (3-16-04)

i. A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT). (3-16-04)

ii. A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

iii. A temporary permit may be renewed one (1) time for a period of one (1) year, upon application to the Board. (4-28-93)

iv. Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. <u>The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310,</u>

Idaho Code. ~~*(3-16-04)*~~( )

03. Application for Inactive License. A person holding a current license issued by the Board to practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. (3-16-04)

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than fifty dollars ($50) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars ($50) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-16-04)

04. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-16-04)

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-16-04)

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

05. Application for Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services. (3-16-04)

b. Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the

provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: (3-16-04)

i. Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and (3-16-04)

ii. Being currently certified in cardiopulmonary resuscitation (CPR). (3-16-04)

c. Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. (3-16-04)

d. Application For Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: (3-16-04)

i. Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or (3-16-04)

ii. Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. (3-16-04)

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: (3-16-04)

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had

direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; (3-16-04)

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or (3-16-04)

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter (¼) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. (3-16-04)

f. Permits. All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. (3-16-04)

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. ~~*(3-16-04)*~~( )

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1)

year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. (3-16-04)

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. (3-16-04)

g. Conditional Permits. Any individual who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

034. LICENSE EXPIRATION AND RENEWAL.
All licenses shall be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board and shall become invalid on the expiration date printed on the face of the certificate of the license unless renewed. The failure of any person to renew his renewable license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee for each renewal year of a license. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure if such license shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. ~~*(3-16-04)*~~( )

01. Renewal. Each license shall be renewed by submitting a completed request for renewal form accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. (3-16-04)

02. Reinstatement. Licenses canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

03. Reapplication. A person whose license has been canceled for a period of more than five (5) years, shall be required to make application to the Board as a new applicant for licensure. (2-23-94)

04. Continuing Education. Prior to renewal each applicant for renewal, reinstatement or reapplication, shall submit evidence of successfully completing no less than twelve (12) clock hours per year of continuing education acceptable to the Board. Continuing education ~~*for licensure renewal*~~ must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: ~~*(2-23-94)*~~( )

a. Attending or presenting at conferences, seminars or inservice programs. (2-23-94)

b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

046. FEES.
Actual fees shall be set to reflect real costs of Board administration. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of Section 54-4317, Idaho Code. Each applicant shall be responsible for the payment of any fee charged by the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board. (3-16-04)

01. Licensure and Permit Fees for Respiratory Care Practitioners. (3-16-04)

a. Initial Licensure Fee. The fee for initial licensure, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars ($90). (3-16-04)

b. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the renewal for each year not licensed plus a fee of thirty-five dollars ($35). (3-16-04)

c. Inactive Fee - Reactivate Fee. The fee for converting an active license to an inactive license shall be no more than fifty dollars ($50). An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars ($50) to the Board. (3-16-04)

d. Renewal Fee. The renewal fee shall be no more than seventy dollars ($70). (3-16-04)

e. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars ($90). ~~*(2-23-94)*~~( )

02. Permit Fees for Polysomnography Related Respiratory Care Practitioners. (3-16-04)

a. Initial Permit Fee. The fee for an initial permit for a registered polysomnographic technologist or a polysomnographic technician shall be no more than ninety dollars ($90). The fee for an initial permit for a polysomnographic trainee shall be no more than forty-five dollars ($45). (3-16-04)

b. Reinstatement Fee. The reinstatement fee for a lapsed permit for a registered polysomnographic technologists or a polysomnographic technician shall be the renewal fee for each year not holding an active permit plus a fee of thirty-five dollars ($35). (3-16-04)

c. Renewal Fee. The renewal fee for an active permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than seventy dollars ($70). The renewal fee for an active permit for a polysomnographic trainee shall be no more than thirty-five dollars ($35). (3-16-04)

d. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars ($90). The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a polysomnographic trainee shall be no more than forty-five dollars ($45). ~~(3-16-04)~~( )

e. Conditional Permit Fee. The fee for a conditional permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars ($90). The fee for a conditional permit for a polysomnographic trainee shall be no more than forty-five dollars ($45). Conditional permits will issue on or after January 1, 2004, and will issue until issuance of regular permits as provided in this chapter. (3-16-04)

03. Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care. (3-16-04)

a. Initial Licensure/Permit Fee. The fee for initial issuance of a dual license/permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars ($90). A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee. (3-16-04)

b. Reinstatement Fee. The reinstatement fee for a dual license/permit that has lapsed shall be the renewal for each year not dually licensed/permitted plus a fee of thirty-five dollars ($35). (3-16-04)

c. Renewal Fee. The renewal fee shall be no more than seventy dollars ($70). Renewal shall be required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially shall not have been obtained at the same time. (3-16-04)

04. General Fee Information. (4-28-93)

a. Necessary fees shall accompany applications. (4-28-93)

b. Fees shall not be refundable. (4-28-93)

c. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (4-28-93)

d. The Board may, in its discretion, provide for the proration of fees charged in conjunction with the initial application for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. ( )

HEALTH AND WELFARE

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-707, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 457 through 460.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 14th day of November, 2005.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 (208) 334-3945 fax

The Following Notice Was Published With The 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) 54-707, 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 19, 2005.

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:

Update contact information for the board for public access, define athletic trainer, set standard. Provide for supervision of athletic trainers in compliance with Title 54, Chapter 39. Sets deadline for appeals on peer review conducted by the committee.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no impact on general or dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is not a controversial change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

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 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF IDAHO BOARD OF CHIROPRACTIC PHYSICIANS (RULE 5).
The office of the Board of Chiropractic Physicians is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~*ibol@ibol.state.id.us*~~ chi@ibol.idaho.gov. The Board's official web site

is at ~~*www2.state.id.us/ibol/chi*~~ https://www.ibol.idaho.gov/chi.htm. ~~*(3-15-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITION (RULE 10).

01. Board. The State Board of Chiropractic Physicians as prescribed in Section 54-703, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. (3-15-02)

03. Inactive Status. The status of licensure that has been made inactive by compliance with Section 54-708(2) and Subsection 300.02. The holder of an inactive license may not practice chiropractic in Idaho. (3-15-02)

04. Inactive Retired. The status of a licensee who is over sixty-five (65) years of age, has paid the inactive retired fee and is permanently retired from the practice of chiropractic. The holder of an inactive retired license may not practice chiropractic in Idaho. (3-15-02)

05. Athletic Trainer. A person licensed by the Idaho Board of Medicine pursuant to Section 54-3909, Idaho Code. (____)

(BREAK IN CONTINUITY OF SECTIONS)

553. -- ~~599~~559.(RESERVED).

560. SUPERVISION OF ATHLETIC TRAINERS.
Idaho licensed chiropractic physicians who are designated as a directing physician responsible for the supervision of licensed athletic trainers shall comply with all duties and responsibilities of a directing physician as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," except that designated chiropractic physicians shall not be required to register. (____)

561. -- 599. (RESERVED).

600. CHIROPRACTIC PEER REVIEW (RULE 600).

01. Purpose and Composition of Peer Review Committee. There is hereby established a Peer Review Committee, the members of which will function at the will of the Idaho State Board of Chiropractic Physicians. (7-1-98)

a. The purpose of the Peer Review Committee is to review those matters relative to the appropriateness, quality, utilization, and cost of chiropractic care in the state of Idaho. (7-1-98)

b. The Committee will be comprised of a chairman and a minimum of five (5) members, all of whom will be appointed by the members of the Board, and all of whom will serve at the pleasure of the Board. They may be removed from the Committee by vote of the Board, at any time, without cause. (7-1-98)

c. The Board will appoint one (1) of its members to act as a liaison between the Board and the Committee. This liaison will serve at the pleasure of the Board and may be removed by the Board, at any time, without cause. (7-1-98)

02. Definitions. (7-1-98)

a. "Board" means the Idaho State Board of Chiropractic Physicians. (7-1-98)

b. "Patient" means an individual who has received treatment from an Idaho licensed chiropractor, or who has received treatment under the supervision or direction of an Idaho licensed chiropractor, which treatment is within the scope of practice for a chiropractor within the state of Idaho. (7-1-98)

c. "Peer Review" means an evaluation performed by members of the Committee, which review will include the appropriateness, quality, utilization, and cost of chiropractic services and ethical performance of chiropractic care. (7-1-98)

d. "Peer Review Committee Members" shall mean those individuals appointed by the Board to serve on the Peer Review Committee. (7-1-98)

e. "Individual Reviewers" means those individual members of the Committee who are designated by the chairman of the Committee to conduct a peer review evaluation of any particular matter. (7-1-98)

03. Committee Criteria. (7-1-98)

a. Requirements for Membership: To be considered for appointment to the Committee, an applicant shall: (7-1-98)

i. Hold a current Idaho license to practice chiropractic, which license is in good standing and which has never been the subject of a formal disciplinary action in any jurisdiction; (7-1-98)

ii. Be actively engaged in the practice of chiropractic for the past four (4) years, with the most recent two (2) of those years having been spent in Idaho. (7-1-98)

iii. Obtain such peer review training as may be required by the Board. (3-15-02)

b. Appointment Process: Each year the Board will notify all Idaho licensed

chiropractors of the process and deadlines by which they may self-submit for membership on the Committee. (7-1-98)

i. The submissions will be maintained on file for one (1) year; after which time they will be discarded without notice to the applicants. (7-1-98)

ii. The Board will notify those individuals who are named to the Committee of their appointment. (7-1-98)

c. Limitations of Peer Review Committee Members. While serving on the Peer Review Committee, a member shall not: (7-1-98)

i. Solicit to do independent medical examinations and/or reviews for insurance companies, attorneys or other third parties; (7-1-98)

ii. Utilize any designation or other reference to Committee membership on any advertisement, including telephone book, office, letterhead, or any other place. (7-1-98)

d. Reimbursement: Committee members will be afforded expense reimbursement in accordance with state employee travel regulations upon Board approval. (7-1-98)

04. Standards. (7-1-98)

a. In conducting any review, the Committee will utilize the Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference, and Procedural/Utilization Facts, Chiropractic/Physical Therapy Treatment Standards, a Reference Guide, 5th Edition, Robert E. Olson, D.C. (7-1-98)

b. The reviewing chiropractors will be expected to utilize their own experience and other reference sources in ascertaining the reasonableness and appropriateness of care provided. (7-1-98)

05. Who May Utilize the Services of the Committee. A request for peer review may be submitted to the Committee by a patient, the patient's legal representative, an insurer or other third-party payor or health care provider, or the treating chiropractic physician. (7-1-98)

06. Form of Request. A request for peer review must be submitted to the Committee on forms available from the Board offices. (7-1-98)

07. Fees for Review. The following fees will be assessed: (7-1-98)

a. If review is requested by a patient: no charge. (7-1-98)

b. If review is requested by a treating physician, an insurer or third party provider: (7-1-98)

i. One hundred twenty-five dollars ($125) for a review of claims in the amount of one thousand dollars ($1,000) or less; (3-30-01)

ii. Two hundred fifty dollars ($250) for a review of claims in the amount of one thousand one dollars ($1,001) or more and not exceeding three thousand dollars ($3,000); (3-30-01)

iii. Three hundred fifty dollars ($350) for a review of claims in the amount of three thousand one dollars ($3,001) or more; (3-30-01)

c. Payment for reviews by the insurer or third-party provider is required prior to implementation of any review process. (7-1-98)

08. Procedures for Review. (7-1-98)

a. All reviews will be blind reviews. The identity of the patient, treating physician, and any insurer or third-party payor for the services will be unknown to the individual reviewers. (7-1-98)

b. Peer review will be conducted only upon request. The opportunity for participation in the review will be made available to the non-requesting party or parties. With the exception of the treating chiropractic physician, there is no requirement of participation in the peer review process. (7-1-98)

c. Reviews will be conducted by three (3) individual reviewers, to be chosen from the membership of the Committee by the chairman. (7-1-98)

d. The individual reviewers will conduct their evaluation, reach an agreement as to the outcome, and report that outcome to the chairman. If any of the parties desire to appeal this decision, they may within sixty (60) days of the decision notify the chairman who will appoint one (1) new reviewer to conduct an evaluation and report the outcome to the chairman. There will be no further rights to appeal. Decisions of the individual reviewer will not be subject to challenge. ~~*(7-1-98)*~~( )

e. The chairman will provide regular reports to the Board liaison. If it is the opinion of the reviewers that a licensed chiropractic physician has violated any of the laws and rules governing continued licensure, the Committee chairman will notify the Board liaison, immediately. The liaison will then refer the matter for further investigation and potential disciplinary action by the Board. (7-1-98)

HEALTH AND WELFARE

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.06.01 - RULES GOVERNING THE IDAHO BOARD OF HEARING AID DEALERS AND FITTERS

DOCKET NO. 24-0601-0501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-2914, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, page 468.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 14th day of November, 2005.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 (208) 334-3945 fax

The Following Notice Was Published With The 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) 54-2914, 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 19, 2005**.**

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:

Repeal of rules for the Board of Hearing Aid Dealers and Fitters, IDAPA 24.06.01. Title 54, Chapter 29, Idaho Code, was rewritten during the 2005 legislative session and the Board of Hearing Aid Dealers and Fitters was eliminated.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no impact on general funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules are no longer applicable due to changes in Title 54, Chapter 29.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208-334-3233**.**

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 26, 2005.

DATED this 26th day of August, 2005.

IDAPA 24.06.01 IS BEING REPEALED IN ITS ENTIRETY

HEALTH AND WELFARE

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 476 through 479.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 14th day of November, 2005.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 (208) 334-3945 fax

The Following Notice Was Published With The 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) 54-605, 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 19, 2005.

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:

Update incorporation by reference, update board contact information, clarify podiatric residency requirements, change examination dates, clarify acceptable examination and documentation, and provide a scope of practice.

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

There are no fees being imposed or charged as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no impact on general or dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes or not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

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 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE (RULE 4).
The document titled American Podiatric Medical Association's Code of Ethics as published by the American Podiatric Medical Association, dated ~~*March*~~ April 200~~2~~5 and referenced in Section 500, is herein incorporated by reference and is available from the Board's office and on the Board

web site. ~~*(5-3-03)*~~(____)

005. ADDRESS OF THE IDAHO BOARD OF PODIATRY (RULE 5).
The office of the Board of Podiatry is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~*ibol@ibol.state.id.us*~~ pod@ibol.idaho.gov. The Board's official web site is at ~~*www2.state.id.us/ibol/pod*~~ https://www.ibol.idaho.gov/pod.htm. ~~*(3-13-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

152. PODIATRIC RESIDENCY (RULE 152).

01. Residency Required for Licensure. A candidate may not apply for licensure until completion of an accredited podiatric ~~*surgical*~~ residency as approved by the Council on Podiatric Medical Education of no less than twenty-four (24) months, a minimum of twelve (12) months ~~*or more as approved by the Council on Podiatric Medical Education or completion of equivalent surgical training as approved by the Board*~~ of which must be surgical. ~~*(7-1-98)*~~(____)

02. Submission of Verification of Residency Curriculum. Notwithstanding the provisions of Subsection 152.01, a candidate shall cause to be provided directly from the residency program such official documentation of completion of the entire curriculum as the board may require. Any deviation of this requirement must be approved by the Board. ~~*(3-13-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

400. LICENSURE BY EXAMINATION (RULE 400).

01. Examination of Applicants. Examination of applicants shall be conducted by the whole board or by its designated agents or representatives. (7-1-97)

02. Exam Required for Licensure. No person shall be granted a license to practice podiatry without first receiving a passing grade on an examination given by the board and consisting of those subjects outlined in Section 54-606, Idaho Code. (3-13-02)

03. Exam Dates. Examinations shall be held at Boise, Idaho, ~~*the third Monday of July*~~ no less than annually and at such ~~*other*~~ times and places as the board shall direct. ~~*(3-13-02)*~~(____)

04. Passing Grade. A passing grade in all subjects examined shall be a general average of not less than seventy percent (70%). (5-3-03)

05. Failure of Exam. An applicant failing the examination shall be entitled within six (6) months to a reexamination upon the payment of an additional fee as established in Section 300. (3-13-02)

06. Failure of Reexam. An applicant who fails the examination on two (2) such reexaminations shall exhaust his privilege under his original application. (9-28-94)

07. Original Application. The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (7-1-97)

401. LICENSURE BY ENDORSEMENT (RULE 401).
Applicants for licensure under Section 54-613, Idaho Code, may upon the approval of the Board be granted a license. Each applicant for licensure by endorsement shall provide documentation for each of the following before licensure will be considered: (3-15-02)

01. Complete Application. A complete application together with the required fee~~; *and*~~. ~~*(3-15-02)*~~(____)

02. Certification of License. Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory~~; *and*~~. ~~*(3-15-02)*~~(____)

03. Credentials. Credentials as required in Subsections 200.02, through 200.06~~; *and*~~. ~~*(3-15-02)*~~(____)

04. Examination. Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. ~~*Examination shall be certified by either*~~ Official certification of examination must be received by the board directly from:~~*(3-15-02)*~~(____)

a. The applicant's state or territory of licensure; or (3-15-02)

b. The national board of podiatry examiners~~; *and*~~. ~~*(3-15-02)*~~(____)

05. Practical Experience. Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application~~; *and*~~. ~~*(3-15-02)*~~(____)

06. Continuing Education. Obtained at least twelve (12) hours of continuing education during the twelve (12) months prior to the date of application~~; *and*~~. ~~*(3-15-02)*~~(____)

07. Disciplinary Action. Has not been the subject of any disciplinary action within the last five (5) years immediately prior to application and has never had a license to practice podiatry revoked, suspended, or otherwise sanctioned either voluntarily or involuntarily in any jurisdiction. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

403. -- ~~499~~449.(RESERVED).

450. SCOPE OF PRACTICE (RULE 450).

01. Competence. Upon being granted a license to practice podiatry, a practitioner is authorized to provide only those services and treatments for which that practitioner has been trained and prepared to provide. Information contained within the application file and supplemental certified information of additional training and experience included in the credential file maintained by the practitioner shall be prima facie evidence of the practitioner's education and experience. It is the responsibility of the individual practitioner to ensure that the information in his credential file is accurate, complete and supplemented to support all procedures, applications and treatments employed by the practitioner. Practice beyond a practitioner's documented education and experience may violate the adopted code of ethics and be grounds for discipline by the board. ( )

02. Advanced Surgical Procedures. Advanced surgical procedures shall be performed in a licensed hospital or certified ambulatory surgical center accredited by the joint commission on accreditation of healthcare organizations or the accreditation association for ambulatory health care where a peer review system is in place. Advanced surgical procedures shall be defined as: ( )

a. Ankle fractures - Open Reduction and Internal Fixation. ( )

b. Ankle and rearfoot arthrodesis. ( )

c. Nerve surgery of the leg. ( )

d. Major tendon repair or transfer surgery - proximal to ankle. ( )

e. Autogenous bone grafting. ( )

f. External fixation of the rearfoot, ankle and leg. ( )

451. -- 499. (RESERVED).

HEALTH AND WELFARE

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3204, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 480 through 483.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 14th day of November, 2005.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 (208) 334-3945 fax

The Following Notice Was Published With The 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) 54-3204, 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 19, 2005.

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:

Update contact information for the Board, clarify group supervision, clarify requirements for social work supervisor registration.

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

There are no fees being imposed or charged as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

There is no impact on general or dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

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 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF THE STATE BOARD OF SOCIAL WORK EXAMINERS (RULE 5). The office of the State Board of Social Work Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945.

The Board's e-mail address is ~~*ibol@ibol.state.id.us*~~ swo@ibol.idaho.gov. The Board's official web site is at https://www.ibol.idaho.gov/swo.htm. ~~*(3-14-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

201. PRACTICE OF SOCIAL WORK.

01. Baccalaureate Social Work. The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. (3-20-04)

02. Master's Social Work. The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist and in accordance with an approved supervision plan. (3-20-04)

03. Clinical Social Work. The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families, and small groups. Clinical social work includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice. (3-20-04)

04. Clinical Practice Exemption. A social worker licensed in Idaho at the masters level prior to August 5, 2002 engaged in clinical social work and employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility may meet the supervised experience requirement for clinical licensure upon submission of documentation prior to July 1, 2006 showing a minimum of one hundred (100) face-to-face hours of employer provided

supervision. No more than seventy-five (75) hours of supervision may be provided by a licensed counselor, marriage and family therapist, or psychiatric nurse and no less than twenty-five (25) hours of supervision may be provided by a licensed clinical social worker, psychologist, or an individual licensed to practice medicine and surgery who practices in the area of psychiatry. A licensed social worker who meets the requirements of Section 201 may continue to practice clinical social work until July 1, 2006. An individual practicing under this exemption must still pass the clinical examination as set forth in Section 350 prior to clinical licensure. (3-14-05)

05. Independent Practice Of Social Work. As defined in Section 54-3207, Idaho Code, is that practice in which an individual who, wholly or in part, practices social work autonomously, with responsibility for that practice. No baccalaureate or masters level social worker shall engage in independent practice until such time as the social worker shall have worked in a supervised setting and received a minimum of three thousand (3000) hours in a supervised setting in no less than two (2) years. Anyone holding a current Idaho Social Work license who was licensed in Idaho prior to August 5, 2002 shall be exempt from the requirement to submit a plan of supervision and may apply for the Independent Practice certification. Such applicant shall, prior to July 1, 2006, submit documentation establishing that a minimum of three thousand (3,000) hours of supervised practice, including one hundred (100) face-to-face hours, was obtained in a supervised setting and provided by a qualified and experienced professional working in the same area of practice; that supervision occurred on a regular and on-going basis; and that the supervisor(s) held a social work license in good standing. (3-14-05)

06. Private Practice of Social Work. As defined in Section 54-3207, Idaho Code, is that independent practice in which an individual sets up and maintains responsibility for the contractual conditions of payment with clients, agencies, or institutions. (5-3-03)

07. Employment of a Social Worker. A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner. (5-3-03)

08. Supervision. Supervised experience shall be required for both independent practice status and clinical licensure. Consultative-teaching supervision is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. A total of three thousand (3,000) hours of supervised social work experience accumulated in not less than two (2) years is required. Actual supervisor contact shall be face-to-face and provided by a qualified and experienced professional working in the same area of practice and must occur on a regular and on-going basis and consist of a minimum of one hundred hours (100) hours. Ratio of supervisor/supervisee shall not exceed two (2) social workers to one (1) supervisor per hour of supervision. <u>Group supervision totaling no more than fifty (50) hours will be allowed for groups of no more than six (6) persons and the allowable credit shall be prorated at the two to one (2 to 1) ratio (total session minutes divided by total supervisees multiplied by two (2) equals maximum allowable credit per supervisee for the session. i.e. an individual attending a one (1) hour group supervisory session consisting of six (6) supervisees shall be allowed twenty (20) minutes of group supervision credit).</u> Supervisors must hold a degree

in social work and a current license in good standing, except as noted in Subsection 201.08.c. ~~*(3-14-05)*~~(____)

a. Supervision of baccalaureate social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the baccalaureate, masters, or clinical level. (3-20-04)

b. Supervision of masters social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the masters or clinical level. (5-3-03)

c. Supervision of social workers pursuing licensure as clinical level practitioners must be provided by either a licensed clinical social worker, a licensed clinical psychologist, a person licensed to practice medicine and surgery who practices in the area of psychiatry, a licensed clinical professional counselor registered as a supervisor or a licensed marriage and family therapist registered as a supervisor and must focus on clinical social work as defined. No less than fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker. A social worker pursuing licensure at the clinical level must document one thousand seven hundred fifty (1,750) hours of direct client contact of the required three thousand (3,000) hours in clinical social work as defined. (3-14-05)

d. Supervision reports shall be submitted from each supervisor directly to the Board within thirty (30) days following each six (6) month period. Failure of the supervisor to submit the required reports in a timely manner may result in the supervisor being restricted by the Board from providing further supervision. (3-20-04)

09. Supervised Practice Required. To be eligible for licensure as an independent practitioner a candidate must: (5-3-03)

a. Meet the requirements set forth in Subsection 201.08; (3-20-04)

b. Develop a plan for supervision that must be approved by the Board prior to commencement of supervision. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by the Board prior to the commencement of supervision by the new supervisor; and (5-3-03)

c. Not have more than two (2) supervisors at any given time. (5-3-03)

202. SOCIAL WORK SUPERVISOR REGISTRATION (RULE 202).
Effective January 1, 200~~6~~7, Idaho licensed social workers shall be registered with the Board in order to provide postgraduate supervision for those individuals pursuing licensure in Idaho as a clinical social worker. ~~*(3-14-05)*~~(____)

01. Requirements for Registration. (3-14-05)

a. Document at least two (2) years experience as a licensed clinical social worker ~~*in Idaho*~~. ~~*(3-14-05)*~~(____)

b. Have not been the subject of any disciplinary action for five (5) years prior to application for registration. (3-14-05)

c. Document fifteen (15) contact hours of education in supervisor training as approved by the Board. ( )

02. Registration. A supervisor applicant shall submit to the Bureau a completed application form as approved by the board. (3-14-05)

a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant shall be registered as a supervisor. (3-14-05)

b. A supervisor's registration shall be valid only so long as the individual's clinical social worker license remains current and in good standing. (3-14-05)

HEALTH AND WELFARE

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-2702 and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Volume 05-10, pages 551 through 553.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: The rulemaking will have no fiscal impact on the general fund.

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

DATED this 4th day of November, 2005.

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

The Following Notice Was Published With The 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 37-2702 and 54-1717, 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 19, 2005.

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 clarifies the existing requirement that pharmacies have positive identification for persons receiving controlled substances to better outline the means of compliance with this requirement. The change also moves the requirement from its earlier location (within the definition section) to the section that addresses filling controlled substance prescriptions. This rule change specifically outlines the types of positive identification that are required for delivery of controlled substances (officially recognized photo identification or actual positive personal knowledge of the pharmacy staff). This rule change also adds a requirement that the pharmacy prescription record reflect the means of positive identification used.

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

The proposed changes does not impose or increase any fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule was discussed with impacted groups at a public meeting of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact R. K. “Mick” Markuson, Director, at (208) 334-2356.

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 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

433. Definitions - (H -- Z).

01. Hospital. The term "hospital" means an institution for the care and treatment of the sick and injured, approved by the Department of Health as proper to be intrusted with the custody of controlled substances and the professional use of controlled substances under the direction of a practitioner. (7-1-93)

02. Individual Practitioner. The term "individual practitioner" means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the state in which he practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner. (7-1-93)

03. Institutional Practitioner. The term "institutional practitioner" means a hospital or other person (other than an individual) licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which it practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy. (7-1-93)

04. Laboratory. The term "laboratory" means a laboratory approved by the Idaho Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and medical purposes and for purposes of instruction and administered by a person licensed by the state of Idaho to possess such substances. (7-1-93)

05. Name. The term "name" means the official name, common or usual name, chemical name, or brand name of a substance. (7-1-93)

06. Official Idaho Register. The term "Official Idaho Register" is defined as the official register issued by the Board of Pharmacy and contains the required information to record the sales or disposition of Schedule V substances, which book shall be in duplicate bearing the notice to the public on the reverse side of the original sheet which is permanently bound in the book and shall be retained for a period of two (2) years after the last dated entry. (7-1-93)

07. Owner. The term "owner" as defined in this act, with reference to a vehicle, means any person having any right, title or interest in it. (7-1-93)

08. Pharmacist. The term "pharmacist" means any pharmacist licensed by a State to dispense controlled substances, and shall include any other person (e.g., pharmacist-intern) authorized by a State to dispense controlled substances under the supervision of a pharmacist licensed by such State. (7-1-93)

09. Pharmacy. The term "pharmacy" means every store or other place of business where prescriptions are compounded, dispensed or sold by a pharmacist and prescriptions for controlled substances are received or processed in accordance with the federal law and the

pharmacy laws and rules of this state. (7-1-93)

10. Prescription. The term "prescription" as used in this act, means a prescription for a controlled substance in Schedules III, IV, V, such prescription is an oral order given individually for the person for whom prescribed, directly from the prescriber or by the prescriber's employee or agent to the pharmacist or indirectly by means of an order written in ink, indelible pencil, typewritten, or a computer generated hard copy, signed by the prescriber, and shall contain the address of the prescriber, his federal registry number, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, and shall be dated as of the date on which it is written. Written prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to federal and state laws, regulations and rules. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these rules. ~~*Persons receiving controlled substances shall be positively identified.*~~
~~*(3-20-04)*~~(____)

11. Register, Registration. The terms "register" and "registration" refer only to registration required and permitted by Section 37-2717, Idaho Code. (7-1-93)

12. Registrant. The term "registrant" means any person who is registered. (7-1-93)

13. Readily Retrievable. The term "readily retrievable" means that certain records are kept by automatic data processing systems or other electronic or mechanized record keeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records. (7-1-93)

14. Sale. The term "sale" as used in this act, includes barter, exchange, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee. (7-1-93)

15. Transport. The term "transport" as used in this act, with reference to controlled substances, includes "conceal", "convey", and "carry". (7-1-93)

16. Vehicle. The term "vehicle" as used in this act, any vehicle or equipment used for the transportation of persons or things. (7-1-93)

17. Physician, Veterinarian, Dentist, Podiatrist, Osteopath, Optometrist, Pharmacist. As used in this act, these terms or any similar designation, means persons who hold valid, unrevoked licenses to practice their respective professions in this state, issued by their respective examining boards in this state. (12-7-94)

18. Physician. The term "physician" includes only persons licensed under Chapter 18 of Title 54, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

463. Contents Of Prescription File Record.
The prescription file shall constitute a record that as to the transactions shall show all of the following: name and address of patient; a description of the means of positive identification obtained by the pharmacy when so required under Section 464 of these rules; the date; the character and quantity of the controlled substance involved; the name, address and state registry number of the prescriber. ~~*(7-1-93)*~~(____)

464. Filling Of A Prescription For A Controlled Substance.
No person other than a registered pharmacist under the laws of this state shall be responsible for the filling and dispensing of a prescription for a controlled substance. Persons receiving controlled substances shall be positively identified by staff at the pharmacy at the time any controlled substance is dispensed directly to an individual at the pharmacy. Positive identification shall consist of either a valid, current state or military drivers license or identification card, or a valid, current passport, each of which must contain a photo of the individual and the individual's signature. In lieu of these means of positive identification, an individual whose identity is personally and positively known to a staff member of the pharmacy who is present and who identifies the individual at the time of delivery of the prescribed controlled substance may be so identified by the staff member. ~~*(7-1-93)*~~(____)

HEALTH AND WELFARE

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Volume 05-10, pages 554 and 555.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: The rulemaking will have no fiscal impact on the general fund.

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

DATED this 27th day of October, 2005.

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

The Following Notice Was Published With The 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 54-1717, 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 19, 2005.

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 is necessary to conform to changes in applicable Medicaid law. This rule change eliminates the reference to drug product selection for Medicaid patients, which is no longer applicable under current law.

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

The proposed changes does not impose or increase any fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is mandated by changes in applicable Medicaid law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

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 26, 2005.

DATED this 23rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

188. DRUG PRODUCT SELECTION.
Drug product selection is allowed only when bioequivalence has been shown. (7-1-93)

01. Method of Drug Product Selection. ~~*Drug product selection will be allowed for medicaid patients unless indicated in the prescriber's own handwriting on the face of the prescription or drug order "BRAND MEDICALLY NECESSARY".*~~ For non-medicaid patients a brand must be dispensed only if the prescriber has indicated "BRAND ONLY" by checking the appropriate box on the face of the prescription. ~~*(8-4-94)*~~(____)

02. Sign. The pharmacy must have a sign posted, readily visible, stating:

"IT MAY BE POSSIBLE TO USE AN EQUIVALENT BUT LESS EXPENSIVE DRUG TO FILL YOUR PRESCRIPTION PROVIDED YOUR PRACTITIONER WILL PERMIT DRUG PRODUCT SELECTION BY THE PHARMACIST. PLEASE CONSULT YOUR PHARMACIST OR PRACTITIONER FOR MORE INFORMATION." (7-1-93)

03. Consumer's Right of Refusal. The consumer shall have the right to refuse generic equivalents when product selection has been allowed by the practitioner. (7-1-93)

04. Labeling. The pharmacist shall label the prescription, unless the practitioner indicates "do not label", with the brand name dispensed or, if a generic is used, the name of the drug and the manufacturer. In addition, he must indicate, on the face of the prescription, the same information. (7-1-93)

05. Definition of Drug Product Selection. Drug product selection means the act of selecting the brand or supplier of therapeutically equivalent generic drug products and will be permitted in the state of Idaho. (7-1-93)

06. Coercion. In no way shall the employer coerce an employee pharmacist to use product selection if the above provisions are not fulfilled. (7-1-93)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The amendment to the temporary rule is effective December 7, 2005. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) conducted negotiated rulemaking to make changes to sections of the Rules for the Control of Air Pollution in Idaho (Rules) that pertain to sources of air pollution that were deferred from the Title V permitting program as defined in IDAPA 58.01.01.301.02.b.iv. IDAPA 58.01.01.313.01.e.i stated that deferred sources were required to submit a Tier I operating permit application no later than June 1, 2005. DEQ anticipated that the Environmental Protection Agency (EPA), by December 2004, would have decided whether to require the deferred sources to submit an application; however, that decision has not been issued. Therefore, DEQ was required to put a rule in place on or before June 1, 2005 in order to address this issue.

In May 2005 the Board of Environmental Quality (Board) adopted a temporary rule allowing DEQ to exempt deferred sources from the requirement to obtain a Tier I operating permit unless EPA decides differently. In July 2005, DEQ published the temporary/ proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, July 6, 2005, Vol. 05-7, pages 73 through 77. No public comments were received. After publication of the temporary/proposed rule, DEQ discovered that the rule was incomplete; a sentence in Subsection 794.03 should have been deleted but was not. The pending rule adopted by the Board contains the necessary revision and the temporary rule has been amended accordingly. The remaining sections have been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0101-0501***
Control of Air Pollution in Idaho ***PENDING RULE***

July 6, 2005, Idaho Administrative Bulletin, Vol. 05-7, pages 73 through 77.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Simon at michael.simon@deq.idaho.gov, (208)373-0212.

DATED this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is May 31, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, 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 Wednesday, July 22, 2005.

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: DEQ conducted negotiated rulemaking to make changes to sections of the Rules for the Control of Air Pollution in Idaho that pertain to sources of air

pollution that were deferred from the Title V permitting program as defined in IDAPA 58.01.01.301.02.b.iv.

IDAPA 58.01.01.313.01.e.i. stated that deferred sources were required to submit a Tier I operating permit application no later than June 1, 2005. DEQ anticipated that the Environmental Protection Agency (EPA), by December 2004, would have decided whether to require the deferred sources to submit an application; however, that decision has not been issued. Therefore, DEQ was required to put a rule in place on or before June 1, 2005 in order to address this issue.

In conjunction with members of the regulated community and other interested parties, DEQ initiated rulemaking and negotiated a temporary/proposed rule allowing DEQ to exempt deferred sources from the requirement to obtain a Tier I operating permit unless EPA decides differently. The Board of Environmental Quality adopted the temporary rule on May 17, 2005.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a pending rule in October 2005. The pending rule will become final upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in federal law.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 2, 2005, Vol. 05-3, page 24.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Mike Simon at (208)373-0212, msimon@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 5, 2005.

DATED this 3rd day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

No changes are being made to Subsections 006.01 through 006.101.

102. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; ~~*(5-1-94)*~~(5-31-05)T

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); ~~*(5-1-94)*~~(5-31-05)T

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

The remainder of this Section (006.103 -- 114) has no changes.

(BREAK IN CONTINUITY OF SECTIONS)

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator shall operate, or allow or tolerate the operation of, any Tier I source without an effective Tier I operating permit. (5-1-94)

02. Exceptions. (3-23-98)

a. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. (5-1-94)

b. Tier I sources not located at major facilities do not require a Tier I operating permit until: (3-23-98)

i. December 31, 1997 for Phase II sulfur dioxide sources; (3-23-98)

ii. January 1, 1999 for Phase II nitrogen oxides sources; (3-23-98)

iii. January 1, 2000 for solid waste incineration units required to obtain a permit pursuant to 42 U.S.C. Section 7429(e); and (3-23-98)

iv. ~~*June 1, 2001 for all other such sources, unless an earlier date is required by an applicable standard or EPA determines that no Tier I operating permit is required. All other such sources may request deferral of the Tier I operating permit requirements until June 1, 2006, or such time as the Department provides written notification of an earlier date, by registering the source in accordance with Subsection 313.01.e.*~~ The source becomes a Tier I source under Section 006 of this chapter. ~~*(3-30-01)*~~(5-31-05)T

c. No Tier I operating permit is required for the following Tier I sources: (5-1-94)

i. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA; and (5-1-94)

ii. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61.145. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. (5-1-94)

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: (3-20-97)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

b. For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: (3-23-98)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

c. For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. (3-23-98)

d. For Tier I sources identified in Subsection 301.02.b.iii.: (3-23-98)

i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

~~***e.*** *For Tier I sources identified in Subsection 301.02.b.iv.:* *(3-23-98)*~~

~~*i. Existing on January 1, 2000, the owner or operator of the Tier I source shall register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than May 1, 2001. Complete applications for an original Tier I operating permit for sources registered by May 1, 2001 shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete an evaluation of a registered source shall be furnished on request.* *(5-3-03)*~~

~~*ii. That become Tier I sources after January 1, 2000 but before January 1, 2005, and are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than twelve (12) months after becoming a Tier I source or commencing operation. Complete applications for an original Tier I operating permit for a Tier I source that registers under this provision shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to*~~

~~*the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete the evaluation of a registered source shall be furnished on request.* (5-3-03)~~

~~*iii. That become Tier I sources after January 1, 2005, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator.* (3-30-01)~~

~~***f.*** *The registration information required under Subsection 313.01.e. includes the following:* (5-3-03)~~

~~*i. Facility information. The name, address, telephone number, and location of the facility.* (3-30-01)~~

~~*ii. Owner/operator information. The name, address, and telephone numbers of the owners and operators.* (3-30-01)~~

~~*iii. Facility emissions units. The number and type of emissions units present at the facility.* (3-30-01)~~

~~*iv. Pollutant registration. The emissions from the previous calendar year, or other twelve (12) month period requested by the registrant and approved by the Department, for any regulated air pollutant based on actual annual emissions and/or an estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Additional detailed information on sources, stacks, and emissions may be requested by the Department on an annual basis.* (3-30-01)~~

02. Earlier Dates During Initial Period. Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: (5-1-94)

a. The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. (3-19-99)

b. Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. (5-1-94)

c. The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general

deadlines provided in Subsection 313.01. (5-1-94)

03. Renewals of Tier I Operating Permits. The owner or operator of the Tier I source shall submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. (4-5-00)

04. Changes to Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

794. PERMIT REQUIREMENTS.
No owner or operator may commence construction, modification or operation of any source at a nonmetallic mineral processing plant without first obtaining a permit or complying with Sections 795 through 799. The owner or operator shall comply with the permitting requirements of Subsection 794.01 or Subsection 794.02 and the applicable portions of Subsection 794.03 and/or Subsection 794.04. (3-15-02)

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228. (3-15-02)

02. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001. (3-15-02)

03. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. ~~*Sources that are not located at major facilities may request deferral in accordance with Subsection 301.02.b.iv. and Subsection 313.01.e.* *(3-15-02)*~~(12-7-05)T

04. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 410 shall operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: (3-15-02)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-15-02)

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-15-02)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0503

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, the Idaho Legislature directed the Department of Environmental Quality (DEQ) to promulgate rules pursuant to House Bill 230 and Senate Bill 1228 (codified at Section 39-115, Idaho Code).

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Vol. 05-8, pages 308 through 339. One public comment was received. The rule has not been revised in response to that comment. However, the definition of Modification at Subsection 006.56 has been revised. The sponsors of House Bill 230 and its trailer bill, Senate Bill 1228, acknowledged and agreed that the legislation did not alter the state's existing state only toxic air pollutant program. In revising the definition of Regulated Air Pollutant as a result of the legislation, and in revising the definition of Modification to make the state's minor permitting program consistent with the major program, the state only toxic air pollutant review was inadvertently removed. Subsection 006.56.b clarifies the intent of H230 and S1228 and ensures the state only toxic air pollutant program continues to operate as it has since inception.
The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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 complete text of the proposed rule was published in the August 3, 2005 Idaho Administrative Bulletin, Vol. 05-8, pages 308 through 339.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit

DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: House Bill 230 and Senate Bill 1228 require the Department of Environmental Quality (DEQ) to adopt rules that define the term "regulated air pollutant" as it applies to various Clean Air Act (CAA) permit to construct and operating permit programs. In addition, these bills require DEQ to adopt rules that are consistent with the CAA and its implementing regulations in regard to the permit applicability treatment of fugitive emissions.

Revisions to the Rules for the Control of Air Pollution in Idaho will clarify certain rule sections and permit requirements to ensure consistency with federal CAA requirements.

The text of the rule was developed by DEQ in conjunction with a negotiating committee

made up of persons having an interest in the development of this rule. All major and non-major sources of air pollution may be interested in commenting on this proposed rule. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 4, 2005, Volume 05-5, page 112.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

Subsections 006.01 the through 006.09 have no changes

10. Ambient Air Quality Violation. Any ambient concentration ~~*of any regulated air pollutant*~~ that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. ~~*(4-5-00)*~~(____)

11. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when ~~*regulated*~~ air pollutant impacts have been observed and/or meteorological conditions are conducive to additional ~~*regulated*~~ air pollutant buildup. ~~*(4-5-00)*~~(____)

12. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular ~~*regulated*~~ air pollutant or air pollutants. ~~*(4-5-00)*~~(____)

13. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

~~***14. Best Available Control Technology (BACT)****. An emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major facility or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such proposed major facility or major modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any regulated air pollutant which would exceed the emission allowed by any applicable standard under 40 CFR Parts 60 and 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emission unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.*~~

~~*(4-5-00)*~~

1~~5~~4. Board. Idaho Board of Environmental Quality. (5-1-94)

1~~6~~5. Breakdown. An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)

1~~7~~6. BTU. British thermal unit. (5-1-94)

1~~8~~7. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

1~~9~~8. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)

~~20~~19. Commence Construction or Modification. In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)

2~~1~~0. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)

2~~2~~1. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

2~~3~~2. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

2~~4~~3. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)

2~~5~~4. Criteria Air Pollutant. Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)

2~~6~~5. Department. The Department of Environmental Quality. (5-1-94)

2~~7~~6. Designated Facility. Any of the following facilities: (5-1-94)

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)

b. Coal cleaning plants (thermal dryers); (5-1-94)

c. Kraft pulp mills; (5-1-94)

d. Portland cement plants; (5-1-94)

e. Primary zinc smelters; (5-1-94)

f. Iron and steel mill plants; (5-1-94)

g. Primary aluminum ore reduction plants; (5-1-94)

h. Primary copper smelters; (5-1-94)

i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)

j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)

k. Petroleum refineries; (5-1-94)

l. Lime plants; (5-1-94)

m. Phosphate rock processing plants; (5-1-94)

n. Coke oven batteries; (5-1-94)

o. Sulfur recovery plants; (5-1-94)

p. Carbon black plants (furnace process); (5-1-94)

q. Primary lead smelters; (5-1-94)

r. Fuel conversion plants; (5-1-94)

s. Sintering plants; (5-1-94)

t. Secondary metal production facilities; (5-1-94)

u. Chemical process plants; (5-1-94)

v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)

w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)

x. Taconite ore processing facilities; (5-1-94)

y. Glass fiber processing plants; and (5-1-94)

z. Charcoal production facilities. (5-1-94)

2~~8~~7. **Director**. The Director of the Department of Environmental Quality or his designee. (5-1-94)

2~~9~~8. **Effective Dose Equivalent**. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)

~~30~~29. **Emission**. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)

3~~1~~0. Emission Standard. A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)

3~~2~~1. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

3~~3~~2. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

3~~4~~3. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)

3~~5~~4. Excess Emissions. Emissions ~~*of any regulated air pollutant*~~ that exceed~~*ing*~~ an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. ~~*(4-5-00*~~(____)

3~~6~~5. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

3~~7~~6. Facility. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ~~*(4-5-00)*~~(____)

3~~8~~7. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)

3~~9~~8. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)

~~40~~39. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

4~~1~~0. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all

appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

4~~2~~1. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

4~~3~~2. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

4~~4~~3. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

4~~5~~4. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

4~~6~~5. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

4~~7~~6. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

4~~8~~7. Hazardous Air Pollutant (HAP). Any air pollutant listed ~~*in or*~~ pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants.
~~*(4-5-00)*~~( )

4~~9~~8. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

~~50~~49. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring

and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

5~~1~~0. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

5~~2~~1. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

5~~3~~2. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

5~~4~~3. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

5~~5~~4. Member of the Public. For purposes of Subsection 006.~~92~~89.a.x~~x~~vi., a person located at any off-site point where there is a residence, school, business or office. ~~*(4-5-00)*~~(____)

5~~6~~5. Modification. *(____)*

a. Any physical change in, or change in the method of operation of, a stationary source or facility which ~~*increases the amount of any regulated air pollutant emitted by such stationary source or facility*~~ *results in an emission increase as defined in Section 007* or which results in the emission of any regulated air pollutant not previously emitted. ~~*except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation:*~~ ~~*(4-5-00)*~~(____)

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. (____)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (____)

d. For purposes of Subsections 006.55.a. and 006.55.b., routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: ( )

~~*a*~~*i*. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

~~*b*~~*ii*. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

~~*c*~~*iii*. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

5~~7~~6. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

5~~8~~7. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

5~~9~~8. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

~~*60*~~**59. Nonattainment Area**. Any area which is designated, pursuant to 42 U.S.C.

Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

6~~1~~0. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

6~~2~~1. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

6~~3~~2. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

6~~4~~3. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)

6~~5~~4. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

6~~6~~5. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

6~~7~~6. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)

6~~8~~7. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

6~~9~~8. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

~~70~~69. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)

7~~1~~0. PM-10 Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)

7~~2~~1. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on

hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (4-5-00)

7~~3~~2. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

7~~4~~3. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

7~~5~~4. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

a. Fire hazard reduction; (5-1-94)

b. The control of pests, insects, or diseases; (5-1-94)

c. The promotion of range forage improvements; (5-1-94)

d. The perpetuation of natural ecosystems; (5-1-94)

e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)

f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)

g. Other accepted natural resource management purposes. (5-1-94)

7~~6~~5. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

7~~7~~6. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

7~~8~~7. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

7~~9~~8. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

8079**.** **Quantifiable**. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

8***1***0**.** **Radionuclide**. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

8***2***1**.** **Regulated Air Pollutant**. ~~*The following air pollutants:*~~ ~~*(4-5-00)*~~( )

a. ~~*Nitrogen oxides or any volatile organic compounds.*~~ For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., "regulated air pollutant" shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; ~~*(4-5-00)*~~( )

b. ~~*Any pollutant for which a national ambient air quality standard has been promulgated.*~~ For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of "regulated air pollutant" as defined in Subsection 006.81.a. shall also apply; ~~*(4-5-00)*~~( )

c. ~~*Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411.*~~ For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., "regulated air pollutant" shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and ~~*(4-5-00)*~~( )

d. ~~*Any Class I or II substance subject to a standard promulgated under or established under 42 U.S.C. Sections 7671a(a) or 7671a(b).*~~ For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, "regulated air pollutant" shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq.

~~*(4-5-00)*~~(____)

~~***e.*** *Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following:* *(4-5-00)*~~

~~*i.* *Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and* *(4-5-00)*~~

~~*ii.* *Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement.* *(4-5-00)*~~

~~***f.*** *Any air pollutant listed in Sections 585, 586, or subject to regulation pursuant to Section 161. Unless otherwise listed in Subsections 006.84.a. through 006.84.e., these pollutants do not constitute regulated air pollutants for purposes of Sections 300 through 399.* *(7-1-02)*~~

8~~3~~2. **Replicable**. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

8~~4~~3. **Responsible Official**. One (1) of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second quarter 1980 dollars); or (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

8~~5~~4. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

8~~6~~5. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

8~~7~~6. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

8~~8~~7. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

8~~9~~8. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

~~90~~89. Significant. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, ~~A~~a rate of ~~*regulated air pollutant*~~ emissions that would equal or exceed any of the following: ~~*(4-5-00)*~~(____)

a. ~~*Air p*~~Pollutant and emissions ~~*and*~~ rate: ~~*(5-1-94)*~~(____)

i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)

ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)

iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)

iv. Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM_{10} emissions; ~~*(5-1-94)*~~(____)

v. Ozone, forty (40) tons per year of volatile organic compounds ~~*as a measure of ozone*~~; ~~*(5-1-94)*~~(____)

vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)

~~*vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)*~~

~~*viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)*~~

~~*ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)*~~

~~*x. Vinyl chloride, one (1) ton per year; (5-1-94)*~~

~~*x*~~vii. Fluorides, three (3) tons per year; (5-1-94)

~~*x*~~viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)

~~*xii*~~ix. Hydrogen sulfide (H2S), ten (10) tons per year; (5-1-94)

x~~*iv*~~. Total reduced sulfur (including H2S), ten (10) tons per year; (5-1-94)

x~~*v*~~i. Reduced sulfur compounds (including H2S), ten (10) tons per year; (5-1-94)

~~*xvi. PM-10, fifteen (15) tons per year; (5-1-94)*~~

x~~*v*~~ii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)

x~~*v*~~iii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)

xi~~*x*~~v. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)

x~~*x*~~v. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or ~~*(4-5-00)*~~(____)

x~~*x*~~vi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.~~92~~89.a. above and not a toxic air pollutant, any emission rate; or ~~*(4-5-00)*~~(____)

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)

9~~1~~0. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

a. Sulfur dioxide: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)

b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)

c. Carbon monoxide: (5-1-94)

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)

ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)

d. PM-10: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

9~~2~~1. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

9~~3~~2. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

9~~4~~3. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

9~~5~~4. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

9~~6~~5. Source. A stationary source. (5-1-94)

9~~7~~6. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

9~~8~~7. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

9~~9~~8. Standard Conditions. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

~~100~~99. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

10~~1~~0. Stationary Source. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. ~~(4-5-00)~~( )

10~~2~~1. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (5-31-05)T

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-31-05)T

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

10~~3~~2. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

10~~4~~3. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

10~~5~~4. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality

increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

10~~6~~5. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

10~~7~~6. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

10~~8~~7. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

10~~9~~8. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

1~~1~~09. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

11~~1~~0. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

11~~2~~1. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

11~~3~~2. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

11~~4~~3. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

a. Times of visitor use of the Federal Class I area; and (4-5-00)

b. The frequency and timing of natural conditions that reduce visibility. (4-5-00)

c. This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

04. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

05. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

06. Net Emissions Increase. Any increase in actual emissions from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-5-00)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or

modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

08. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable ~~*regulated*~~ air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. ~~*(4-5-00)*~~(____)

09. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

13. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions. (4-5-00)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or

production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant ~~*listed in Subsections 006.84.a. through 006.84.e*~~. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: ~~*(4-5-00)*~~(____)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2004, are hereby incorporated by reference. (4-6-05)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42

U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was

necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)

b. Identification of the specific ~~*regulated air pollutants likely to be emitted*~~ emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. ~~*(4-5-00)*~~( )

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: (4-5-00)

i. Why the maintenance is needed. (3-20-97)

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)

iii. Why the excess emissions are not reasonably avoidable through better scheduling

of the maintenance or through better operation and maintenance practices. (3-20-97)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. (4-5-00)

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.
The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

a. Potential risk to the public or the environment. (3-20-97)

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent

restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

b. The specific ~~*regulated air pollutants likely to be emitted*~~ emissions in excess of applicable emission standards during the event. ~~*(4-5-00)*~~( )

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable.(3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-20-97)

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing Of Excess Emissions Procedures. (4-5-00)

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents Of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

d. An estimate of the ~~*quantity of each regulated air pollutant emitted*~~ emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); ~~*(4-5-00)*~~( )

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

155. CIRCUMVENTION.
No person shall willfully cause or permit the installation or use of any device or use of any means

~~*which,*~~ that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of ~~*regulated air pollutants emitted, conceals an emission of regulated air pollutants which would otherwise violate the provisions of this chapter*~~ emissions. ~~*(4-5-00)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

213. PRE-PERMIT CONSTRUCTION.
This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. ~~*(4-5-00)*~~(____)

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit to Construct Procedures for Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, 222, or 223: ~~*(4-5-00)*~~(____)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).
The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: (4-5-00)

01. Actual Emissions. There is no increase in actual emissions of the applicable ~~*regulated*~~ air pollutant at the facility. ~~*(4-5-00)*~~(____)

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

03. Trade Requirements. All trades involve the same ~~*regulated*~~ air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. ~~*(4-5-00)*~~(____)

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. (5-1-94)

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. (5-1-94)

06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: (5-1-94)

a. Further reductions must be proposed by the owner or operator; and/or (5-1-94)

b. The applicable emission standards in the operating permit will be adjusted by the Department; (5-1-94)

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. (5-1-94)

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal enforcement action or outstanding enforcement order. (5-1-94)

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.
The demonstration of ambient equivalence shall: (5-1-94)

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. (5-1-94)

02. Other Trades. For trades involving any other ~~*regulated*~~ air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. ~~*(4-5-00)*~~(____)

442. -- 459. (RESERVED).

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.
In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (5-1-94)

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). (5-1-94)

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular ~~*regulated*~~ air pollutant. ~~*(4-5-00)*~~(____)

03. Emission Rate Calculation. The emission rate before and after the reduction must

be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (5-1-94)

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (4-5-00)

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

511. APPLICABILITY.
The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. ~~*(5-3-03)*~~(____)

512. DEFINITIONS.
For the purpose of Sections 500 through 516: (5-1-94)

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: ~~*(4-5-00)*~~(____)

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that ~~*regulated air*~~ pollutant; or ~~*(4-5-00)*~~(____)

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to

increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: (5-1-94)

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or ~~*(4-5-00)*~~( )

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: (5-1-94)

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$H = 2.5S$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$H = S + 1.5L$

where: (5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated <u>or toxic</u> air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. ~~*(4-5-00)*~~( )

04. Nearby Structures or Terrain Features. "Nearby" as applied to a specific structure or terrain feature under the definition of "good engineering practice stack height"; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

05. Stack in Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

513. REQUIREMENTS.
The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. ~~*(4-5-00)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

560. NOTIFICATION TO SOURCES.
The Department will assure that all significant sources of ~~*regulated*~~ the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. ~~*(4-5-00)*~~(____)

561. GENERAL RULES.
All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

01. Stage 1 - Air Pollution Forecast and Caution. There shall be no new ignition of

open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-15-02)

02. Stage 2 - Alert. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)

03. Stage 3 - Warning. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)

i. Switch completely to natural gas or distillate oil; or (5-1-94)

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)

04. Stage 4 - Emergency. This will be called only with specific concurrence of Governor. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)

c. All places of employment described below shall immediately cease operations: (5-1-94)

i. All mining and quarrying operations; (5-1-94)

ii. All construction work except that which must proceed to avoid injury to persons; (5-1-94)

iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)

iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)

v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)

vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)

vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)

viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)

ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; (5-1-94)

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)

xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of ~~*regulated*~~ the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit ~~*regulated*~~ the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m.

~~(4-5-00)~~(____)

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.
Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations ~~*of regulated air pollutants*~~ consistent with established air quality criteria. ~~(4-5-00)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.
The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Class I, II and III Areas. In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
CLASS I AREAS	
PM-10:	
Annual arithmetic mean	4
Maximum twenty-four (24) hour average	8
Sulfur dioxide:	
Annual arithmetic mean	2
Maximum twenty-four (24) hour average	5
Maximum three (3) hour average	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
CLASS II AREAS	
PM-10:	
Annual arithmetic mean	17
Maximum twenty-four (24) hour average	30

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
Sulfur dioxide:	
Annual arithmetic mean	20
Maximum twenty-four (24) hour average	91
Maximum three (3) hour average	512
Nitrogen dioxide:	
Annual arithmetic mean	25
CLASS III AREAS	
PM-10:	
Annual arithmetic mean	34
Maximum twenty-four (24) hour average	60
Sulfur dioxide:	
Annual arithmetic mean	40
Maximum twenty-four (24) hour average	182
Maximum three (3) hour average	700
Nitrogen dioxide:	
Annual arithmetic mean	50

(5-3-03)

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur

dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect ~~*regulated air*~~ the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and ~~*(4-5-00)*~~(____)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

679. AVERAGING PERIOD.
For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of ~~*regulated air pollutants*~~ particulate matter. ~~*(4-5-00)*~~(____)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0504

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The temporary rule is effective January 4, 2006. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

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

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 319 through 322. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 319 through 322.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in a federal program.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Chris Ramsdell at christopher.ramsdell@deq.idaho.gov, (208)373-0237.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

October 11, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) proposes to revise sections of the "Rules for the Control of Air Pollution in Idaho" (Rules) that pertain to emission registration requirements for Title V sources of air pollution as outlined in IDAPA 58.01.01.389.04. Changing the Registration Information rule eliminates a redundancy in Title V facility reporting of emissions. Currently, the regulated community completes separate annual emissions registration and emissions inventory projects. The data needed for each project is similar. This rule change will ensure that the one data type required is sufficient to cover both projects in one request. Therefore, the rule change will consolidate emissions registration and inventories and may maximize industry and DEQ efficiency for the two required projects.

The Registration Information rule change will allow emissions data submissions to be completed using a Web-based collection program. Use of this method creates a personnel-hour savings for most facilities and DEQ staff, while at the same time eliminating confusion between the two emissions reporting projects, reducing necessary data quality-assurance checks through computer automation, and providing more accurate fee calculations. The change will allow DEQ to meet proposed EPA data transfer deadlines.

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0101-0504***
Rules for the Control of Air Pollution in Idaho ***PENDING RULE***

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule would become effective on January 4, 2006. The pending rule is expected to be final upon adjournment of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 43.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Christopher Ramsdell at (208) 373-0237, christopher.ramsdell@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 11, 2005.

DATED this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

389. REGISTRATION INFORMATION.
Any person owning or operating a facility or source during the previous calendar year or any

portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1, 2003 or within fifteen (15) days following the adjournment of the 2003 regular session of the legislature, whichever is later, and each April 1 thereafter register with the Department and submit the following information as specified in Subsections 389.01 through 389.05 (submittal forms are located at www.deq.idaho.gov): ~~*(4-2-03)*~~(1-4-06)T

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and (4-2-03)

04. Pollutant Registration. The emissions from the previous calendar year for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter (PM), and volatile organic compounds (VOC) ~~*based on one (1) or more of the following methods chosen by the registrant:*~~ ~~*(4-2-03)*~~

~~***a.*** *Actual annual emissions; or* *(4-2-03)*~~

~~***b.*** *An estimate of the actual annual emissions*~~ calculated using ~~*the unit's*~~ methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, ~~*and*~~ or the types of materials processed, stored, or combusted. ~~*during the preceding calendar year; or*~~ ~~*(4-2-03)*~~(1-4-06)T

~~***c.*** *Allowable emissions based on permit limitations.* *(3-19-99)*~~

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

06. Regulated Air Pollutant Registration Fee. The registration fee set out in Subsection 389.06 shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee set forth in Section 389 shall be paid as provided in Section 393. (4-2-03)

a. The Tier I annual fee schedule shall be as follows: (3-30-01)

i. A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: (4-2-03)

(1) Seven thousand (7,000) tons per year and above shall pay fifty-five thousand dollars ($55,000); (4-2-03)

(2) Four thousand five hundred (4,500) tons per year and above shall pay thirty-three thousand dollars ($33,000); (4-2-03)

(3) Three thousand (3,000) tons per year and above shall pay twenty-two thousand dollars ($22,000); (4-2-03)

(4) One thousand (1,000) tons per year and above shall pay seventeen thousand five hundred dollars ($17,500); (4-2-03)

(5) Five hundred (500) tons per year and above shall pay eight thousand five hundred dollars ($8,500); (4-2-03)

(6) Two hundred (200) tons per year and above shall pay five thousand five hundred dollars ($5,500); and (4-2-03)

(7) Less than two hundred (200) tons per year shall pay two thousand seven hundred fifty dollars ($2,750); plus (4-2-03)

ii. A per ton annual fee of thirty-three dollars ($33) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: (4-2-03)

(1) Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred ten thousand dollars ($110,000); (4-2-03)

(2) Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed fifty-five thousand dollars ($55,000); (4-2-03)

(3) Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed twenty-seven thousand dollars ($27,000); (4-2-03)

(4) Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed nineteen thousand two hundred fifty dollars ($19,250); (4-2-03)

(5) Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed eight thousand two hundred fifty dollars ($8,250); and (4-2-03)

(6) Less than two hundred (200) tons per year not to exceed two thousand seven hundred fifty dollars ($2,750). (4-2-03)

b. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed seven thousand five hundred dollars ($7,500) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. (4-2-03)

07. Shortfall. In the event that, on June 30, 2003 or June 30, 2004 the amount of fees assessed by the Department under Subsection 389.06.a. is less than one million one hundred thousand dollars ($1,100,000), the difference shall be paid by the registrants to which Section 388 applies. (4-2-03)

a. The shortfall will be calculated as follows: (4-2-03)

i. Dividing the amount of the shortfall by the total tons of pollutants registered for the previous calendar year by all registrants; and (4-2-03)

ii. Calculating a per-ton fee which, when multiplied by the total tons registered generates a number in the amount of the shortfall. (4-2-03)

b. Each registrant shall then be assessed by September 1 of the year and shall pay by October 1 of the year a supplemental fee to make up any shortfall of the one million one hundred thousand dollars ($1,100,000) in the amount of the tons of emissions registered for that facility in the previous calendar year multiplied by the per-ton fee calculated in Subsection 389.07.a. (4-2-03)

c. Subsection 389.07 of this rule shall apply only in state fiscal years 2004 and 2005. (4-2-03)

08. Radionuclide Registration Fee. (4-2-03)

a. A registration fee of five dollars per curie per year ($5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. (4-2-03)

b. The registration fee may be paid as provided in Section 397. (4-2-03)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0505

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: This rule updates federal regulations incorporated by reference. EPA filed a notice of reconsideration on October 21, 2005 regarding the final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005) (Clean Air Mercury Rule (CAMR)). Consideration by the Board of the CAMR has been postponed pending final decision on reconsideration of the rule by EPA. Section 107 has been revised with the addition of Subsection 107.03.q., which expressly excludes the CAMR from incorporation by reference into IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho". The CAMR will be addressed under a new docket pursuant to a public negotiated rulemaking. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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 complete text of the proposed rule was published in the August 3, 2005 Idaho Administrative Bulletin, Vol. 05-8, pages 340 through 349.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

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

> **September 7, 2005, 4 p.m.**
> **Department of Environmental Quality Conference Center**
> **1410 N. Hilton, Boise, Idaho.**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho will remain consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2005. In addition, this proposed rule makes a correction in Subsection 209.05.a.iv. The reference to Section 269 should be Section 369.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and

deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by

EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation

arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 200~~4~~5, are hereby incorporated by reference. ~~*(4-6-05)*~~(____)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: U.S. Government Printing Office, http://www.gpoaccess.gov/index.html; and (3-20-04)

b. All documents herein incorporated by reference: (7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996. (3-19-99)

c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

l. Permits, 40 CFR Part 72, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 200~~4~~5, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. ~~(4-6-05)~~(____)

q. *The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,267, is expressly excluded from any incorporation by reference into these rules.* *(____)*

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.
The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct". As used throughout Sections 200 through 228 and 578

through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b), revised as of July 1, 200~~4~~5, and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 200~~4~~5. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.
New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 200~~4~~5, are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 200~~4~~5, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii)(A) - (J)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 51.165(c)	Clean Unit Test for Emission Units that are Subject to LAER
40 CFR 51.165(d)	Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALs

~~(4-6-05)~~(____)

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.
The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 200~~4~~5, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(x)	Clean Unit Test
40 CFR 52.21(y)	Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALS

~~*(4-6-05)*~~(_____)

02. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (4-6-05)

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse, Administrator means the EPA Administrator. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply,

including the exemptions in Sections 220 through 223. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

No Changes to Subsections 209.01 through 209.04

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section ~~269~~369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. ~~(3-19-99)~~(____)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit

modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0506

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. 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 the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Vol. 05-8, pages 350 through 361. The agency received no public comments; however, Subsections 209.06 and 404.05 were revised for the purpose of correcting typographic errors. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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 complete text of the proposed rule was published in the August 3, 2005, Idaho Administrative Bulletin, Vol. 05-8, pages 350 through 361.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418
Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

> **September 7, 2005, 4 p.m.**
> **Department of Environmental Quality Conference Center**
> **1410 N. Hilton, Boise, Idaho.**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: Last year the Department of Environmental Quality (DEQ) revised its major permitting program due to changes in federal law. This docket revises a number of definitions to provide consistency between the major and minor air quality permitting programs. Also proposed are two new subsections allowing for the transfer of permit to construct and Tier II operating permits.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is

expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42, under Docket No. 58-0101-0401.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.55 have no changes

56. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which ~~*increases the amount of any regulated air pollutant emitted by such stationary source or facility*~~ results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: ~~*(4-5-00)*~~(____)

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

Subsections 006.57 through 006.114 have no changes

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

a. Times of visitor use of the Federal Class I area; and (4-5-00)

b. The frequency and timing of natural conditions that reduce visibility. (4-5-00)

c. This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: ( )

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. ( )

i. The average rate shall include fugitive emissions to the extent quantifiable, and

emissions associated with startups, shutdowns, and malfunctions. ( )

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ( )

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ( )

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.03.a.ii. ( )

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. ( )

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ( )

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ( )

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. ( )

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ( )

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 006.03.b.ii. and 006.03.b.iii. ( )

c. For a new emissions unit, the baseline actual emissions for purposes of

determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. ( )

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.03.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.03.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.03.c. ( )

04. **Begin Actual Construction**. Commence construction. ( )

05. **Emissions Increase**. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. ( )

0~~3~~6. **Innovative Control Technology**. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

0~~4~~7. **Integral Vista**. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

0~~5~~8. **Mandatory Federal Class I Area**. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

0~~6~~9. **Net Emissions Increase**. ~~*Any increase in actual emissions*~~ For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: ~~*(4-5-00)*~~( )

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

~~07~~**10.** **Pilot Plant**. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

11. **Projected Actual Emissions**. ( )

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. ( )

b. In determining the projected actual emissions, the owner or operator of the stationary source: ( )

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and ( )

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and ( )

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to

establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or ( )

iv. In lieu of using the method set out in Subsections 007.11.b.i. through 007.11.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. ( )

~~08~~12. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable regulated air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-5-00)

~~09~~13. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

1~~0~~4. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

1~~1~~5. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

1~~2~~6. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

1~~3~~7. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless

the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures for Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public

hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier

I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

06. Transfer of Permits to Construct. ( )

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.0*4*. ( )

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: ( )

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ( )

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ( )

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.0*4*. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. ( )

(BREAK IN CONTINUITY OF SECTIONS)

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised

permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process.

(7-1-02)

05. Transfer of Tier II Permit. ( )

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.0*4*. ( )

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: ( )

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ( )

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ( )

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.0*4*. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. ( )

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0507

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

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

DESCRIPTIVE SUMMARY: This rulemaking includes revisions to the Rules for the Control of Air Pollution in Idaho for certain currently-listed sources that are exempt from obtaining an air quality permit to construct. This pending rule deletes the director's discretion exemption, which is not approved by the federal government as part of the state implementation plan (SIP), and replace it with three specific exemptions. Two of these source exemptions are currently exempt under the Director's discretion. If approved by the Legislature, DEQ intends to submit the final rule as a SIP revision. Facility types affected are certain size crematoriums, certain petroleum remediation sources and dry cleaning facilities that are not major sources. In addition, this rule increases the number of operating hours allowed for stationary internal combustion engines used for emergency purposes. The agency received no public comments, and the rule has been adopted as initially proposed in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 319 through 322. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson

Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

October 11, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) is proposing revisions to the "Rules for the Control of Air Pollution in Idaho" for certain currently-listed sources that are exempt from obtaining an air quality permit to construct. Facility types affected are certain size crematoriums, certain petroleum remediation sources and dry cleaning facilities that are not major sources. In addition, DEQ proposes to increase the number of operating hours allowed for stationary internal combustion engines used for emergency purposes.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Volume 04-3, page 42, under Docket No. 58-0101-0401.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 11, 2005.

DATED this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

222. CATEGORY II EXEMPTION.
No permit to construct is required for the following sources. (4-5-00)

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

b. Environmental characterization activities including emplacement and operation of

field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than ~~*two*~~ five hundred (~~2~~500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. ~~*(4-5-00)*~~(____)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream or which satisfies the following: (4-5-00)

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. ~~(5-1-94)~~( )

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating,

to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. ( )

j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at www.deq.idaho.gov to help assist sources in this exemption determination. ( )

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. ( )

~~***03. Any Other Source Specifically Exempted by the Department****. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. All sources exempted by the Department shall: (4-5-00)***~~

~~***a. Be analyzed by the Department and determined to meet the requirements of Subsections 220.01.a.i. and 220.01.a.ii. (4-5-00)***~~

~~***b. Be analyzed by the Department and determined not to cause or significantly contribute to a violation of any ambient air quality standard. (4-5-00)***~~

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0508

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent in accordance with Sections 67-5224 and 67-5291, Idaho Code.

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

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, October 5, 2005, Vol. 05-10, pages 704 through 710. The one public comment received is in support of the proposed rule. The rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255

(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Temporary And Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

November 4, 2005, 3 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) announced a negotiated rulemaking in the March 3, 2004 issue of the Idaho Administrative Bulletin under Docket 58-0101-0401 to review, and revise as necessary, the structure and efficiency of the air quality permitting rules to modernize, update, and clarify appropriate portions.

This proposed rule addresses the process for permitting air quality minor sources (i.e., sources that are not major for Prevention of Significant Deterioration or New Source Review) that wish to obtain a facility-wide emission cap. This will be a voluntary option that will provide facilities increased operational flexibility while maintaining air quality.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Industry representatives, special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42, under Docket No. 58-0101-0401.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before November 4, 2005.

DATED this 18th day of August, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

165. -- 1~~99~~74. (RESERVED).

175. Procedures And Requirements For Permits Establishing A Facility Emissions Cap. The purpose of Sections 176 through 181 is to establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 228 or Sections 400 through 410. ( )

176. Facility Emissions Cap.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. ( )

02. Applicability. ( )

a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC, ( )

b. FECs are available to new sources, existing sources undergoing a modification, and existing sources that request a FEC. ( )

03. Definitions. For the purposes of Sections 175 through 181, the following terms shall be defined as below. ( )

a. Baseline actual emissions. As defined in Section 007. ( )

b. Design concentration. The ambient concentration used in establishing the FEC. ( )

c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. ( )

d. FEC pollutant. The pollutant for which a FEC is established. ( )

e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. ( )

f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. ( )

177. Application Procedures.
In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. ( )

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. ( )

02. Estimates of Ambient Concentrations. ( )

a. Estimates of ambient concentrations will be based on the most recent applicable and technically appropriate methods and most representative data available to the Department unless otherwise approved by the Department. ( )

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. ( )

c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. ( )

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. ( )

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. ( )

178. Standard Contents Of Permits Establishing A Facility Emissions Cap.
In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department shall have the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. ( )

01. Emission Limitations and Standards. All permits establishing use of a FEC shall contain annual facility wide emissions limitations for each FEC pollutant. ( )

02. Monitoring. All permits establishing a FEC shall contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. ( )

03. Recordkeeping. All permits establishing a FEC shall include the following:( )

a. Sufficient recordkeeping to assure compliance with the FEC. ( )

b. Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. ( )

04. Reporting. All permits establishing a FEC shall include the following: ( )

a. Sufficient reporting to assure compliance with the permit establishing the FEC. ( )

b. Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. ( )

05. Duration. Each permit establishing a FEC shall state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. ( )

179. Procedures For Issuing Permits Establishing A Facility Emissions Cap.

01. General Procedures. Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. ( )

02. **Renewal**. The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: ( )

a. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ( )

b. If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit shall remain in effect until the renewal permit has been issued or denied. ( )

c. Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. ( )

d. On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ( )

03. **Reopening the FEC**. The Department may reopen a FEC to: ( )

a. Reduce the FEC to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the issuance of the permit establishing the FEC. ( )

b. Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ( )

04. **FEC Termination**. The Director may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and Subsections 179.04.a. through 179.04.c.: ( )

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at anytime prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. ( )

b. The FEC established in the permit shall remain in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. ( )

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. ( )

180. Revisions To Permits Establishing A Facility Emissions Cap.
Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 228 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. ( )

01. Criteria. A permit revision is required for the following: ( )

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; ( )

b. A change to the FEC; or ( )

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. ( )

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application shall: ( )

a. Meet the standard application requirements of Section 177; ( )

b. Describe the proposed permit revision; ( )

c. Describe and quantify the change in emissions above the FEC permit limit; and ( )

d. Identify new requirements resulting from the change. ( )

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. ( )

181. Notice And Record-Keeping Of Estimates Of Ambient Concentrations.
Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision shall be required for facility changes implemented in accordance with Section 181. ( )

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. ( )

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee shall provide notice to the Department in

accordance with Subsection 181.01.b. ( )

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification shall: ( )

i. Describe the proposed change; ( )

ii. Describe and quantify expected emissions; and ( )

iii. Provide the estimated ambient concentration analysis. ( )

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall record and maintain documentation on-site of the review. ( )

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations shall be consistent with the estimate of ambient concentration analysis approved for the permit establishing the FEC unless the Department determines that other technical methods are appropriate. The permittee shall include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. ( )

182. -- 199. (Reserved).

(BREAK IN CONTINUITY OF SECTIONS)

201. PERMIT TO CONSTRUCT REQUIRED.
No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. ~~(7-1-02)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)

b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (4-6-05)

c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)

d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)

e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. A Tier II operating permit is required for any stationary source or facility which is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (7-1-02)

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or(4-5-00)

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. (____)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. 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 the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Volume 05-8, pages 362 through 368. The agency received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

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

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact John Brueck at (208)373-0458 or john.brueck@deq.idaho.gov.

DATED this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. This proposed rule updates citations to the federal regulations incorporated by reference to include those revised as of July 1, 2005.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 legislative session if approved by the Legislature.

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

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0458 or john.brueck@deq.idaho.gov.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.
Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 200~~4~~5, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-6-05)~~(____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. U.S. Government Printing Office, http://www.gpoaccess.gov/index.html; and (3-20-04)

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.
Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 200~~4~~5, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-6-05)~~(____)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.
40 CFR Part 261 and all Subparts, except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), except remanded waste codes "K064, K065, K066, K090 and K091" listed in 40 CFR Part 261 Appendix VII, except "49 CFR 173.300" in 40 CFR 261.21(a)(3) as replaced with "49 CFR 173.115 or equivalent test methods in Chapter 7 of SW-846," except "49 CFR 173.151" in 40 CFR 261.21(a)(4) as replaced with "49 CFR 173.127" and except 40 CFR 261.23(a)(8), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency.
~~(4-6-05)~~(____)

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final

analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06
arsenic	0.50
barium	7.60
beryllium	0.010
cadmium	0.050
chromium	0.33
lead	0.15
mercury	0.009
nickel	1
selenium	0.16
silver	0.30
thallium	0.020
vanadium	2
zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from Envirosafe Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to Envirosafe Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the

language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51, 262.53, 262.54(g)(1), and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. ~~(4-6-05)~~(____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.
40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. ~~(4-6-05)~~(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-6-05)~~(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part.", are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-6-05)~~(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.
40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. ~~(4-6-05)~~(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.(2)(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for "2,4,6-Tribromophenol" is excluded. ~~*(4-6-05)*~~(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.
40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~*(4-6-05)*~~(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).
40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.
~~*(4-6-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~*(4-6-05)*~~(____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this

application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.
40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~4~~5. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~*(4-6-05)*~~(____)

HEALTH AND WELFARE

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 359 through 390. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in this rule. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government". The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public

drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Water Works" and the "American Water Works Association Standards," that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Tom John at thomas.john@deq.idaho.gov, (208)373-0191.

Dated this 16th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility and design standards. DEQ has initiated this rulemaking in response to that legislation. Portions of the existing rule, and portions of documents incorporated as rule that relate to design of drinking water line

extensions, will be modified to delete from the rule some items identified as guidance. In addition, this rulemaking adds and/or renumbers the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator".

Developers, cities, counties, drinking water system owners, consultants, engineers, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

SECTION 39-107D IDAHO CODE STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in this proposed rule. Therefore, the proposed changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government". The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These proposed rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and 58.01.08, "Idaho Rules for Public Drinking Water Systems" (Drinking Water Rules). To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

During the 2005 legislative session, the Idaho Legislature passed SB 1220. Among other things, this legislation amended Section 39-118, Idaho Code, so that it requires that all plans and specifications reviewed by DEQ, or by others as allowed under the new law, comply with "facility and design standards". The legislation then directs DEQ to work with professional engineers to establish such standards. DEQ currently reviews the plans and specifications according to the Drinking Water Rules, which reference the "Recommended Standards for Water Works" as a tool used in the review process. The proposed rules, however, also add explicit facility standards that must be met in the review and approval process. In this way, the proposed rules appear to modify the existing DEQ regulatory program. Under these circumstances, it is unclear whether the proposed rules are subject to the provisions of Section 39-107D, Idaho Code.

Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Water Works" and the "American Water Works Association Standards," that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 45.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Tom John at (208) 373-0191, Thomas.John@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE <u>And Availability Of Referenced Materials</u>.
~~*Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual*~~

~~*that pertains to the procedure, method, standard, or construction criterion as it appears in the manual.*~~ ~~*(3-15-02)*~~

01. ~~***Precedence***~~ **Incorporation by Reference**. ~~*In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail.*~~ The following documents are incorporated by reference into these rules. ~~*(5-3-03)*~~( )

a. 40 CFR Parts 141 and 143. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. ( )

b. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, 2003 Edition, except Parts One (1) and Eight (8). ( )

c. American Water Works Association (AWWA) Standards, Edition effective July 2005, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ( )

02. Availability of Specific Referenced Material. Copies of specific documents ~~*adopted by reference throughout*~~ referenced within these rules are available ~~*in*~~ at the following locations: ~~*(12-10-92)*~~( )

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238~~,~~; ~~*or*~~ U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; ~~*and*~~ or http://www.gpoaccess.gov/index.html. ~~*(7-1-97)*~~( )

b. All documents ~~*herein*~~ incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. ~~*(7-1-97)*~~( )

c. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, 2003, Telephone (518) 439-7286. (4-6-05)

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (4-6-05)

g. ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

h. ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

i. ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

j. ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

k. American Water Works Association (AWWA) Standards, ~~*Edition effective July, 2004,*~~ available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ~~*(4-6-05)*~~( )

l. ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

m. ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

n. "Cross Connection Control Manual," December 1995 Edition, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (5-3-03)

o. "Idaho Guidance for Public Drinking Water Systems," 2005 Edition, and subsequent revisions, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ( )

p. "Idaho Standards for Public Works Construction," 2005 Edition, and subsequent revisions, Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. ( )

q. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, April 2003, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706,

www.deq.idaho.gov. ( )

03. **Precedence**. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. ( )

003. DEFINITIONS.
The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

There Are No Changes to Subsections 003.01 Through 003.30

31. **Facility Standards and Design Standards**. Facility standards and design standards are described in Sections 549 through 552 of these rules. Facility and design standards found in Sections 549 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. ( )

3~~1~~2. **Fee Assessment**. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

3~~2~~3. **Filter Profile**. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

3~~3~~4. **GAC10**. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

3~~4~~5. **Groundwater System**. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

3~~5~~6. **Groundwater Under the Direct Influence of Surface Water**. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

3~~6~~7. **Haloacetic Acids (Five) (HAA5)**. The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic

acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

3~~7~~8. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

3~~8~~9. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

~~39~~40. Laboratory Certification Reciprocity. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

4~~0~~1. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

4~~1~~2. Log. Logarithm to the base ten (10). (12-10-92)

43. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (____)

44. Material Modification. For the purpose of plan and specification review requirements as specified in Subsection 551.04, those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. (____)

4~~2~~5. Maximum Daily Consumption Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

4~~3~~6. Maximum Hourly Demand. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

4~~4~~7. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under

Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

4~~5~~8. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

4~~6~~9. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

~~47~~50. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

~~48~~51. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

52. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (____)

53. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (____)

~~49~~54. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

5~~0~~5. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

5~~1~~6. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

5~~2~~7. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water

system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-6-05)

5~~3~~8. **Peak Hourly Flow**. The highest hourly flow during any day. (12-10-92)

5~~4~~9. **Person**. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

~~55~~60. **Pesticides**. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. (12-10-92)

61. **Potable Water Mains**. Pipelines that deliver potable water to multiple service connections. ( )

62. **Potable Water Services**. Pipelines that convey potable water from a connection to the potable water main to individual consumers. ( )

~~5~~63. **Public Notice**. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

~~57~~64. **Public Drinking Water System**. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system". (4-6-05)

~~58~~65. **Public Water System/Water System/System**. Means "public drinking water system". (4-5-00)

66. **Quasi-Municipal Corporation**. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. ( )

~~59~~67. **Repeat Compliance Period**. Any subsequent compliance period after the initial compliance period. (12-10-92)

6~~0~~8. **Responsible Charge (RC)**. Responsible Charge means, active, daily on-site and/

or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

6~~1~~9. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

70. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 551.04.a. of these rules, the qualified licensed professional engineer is also the reviewing authority. ( )

~~62~~71. Sampling Point. The location in a public water system from which a sample is drawn. (12-10-92)

~~63~~72. Sanitary Defects. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

~~64~~73. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

a. Source; (4-5-00)

b. Treatment; (4-5-00)

c. Distribution system; (4-5-00)

d. Finished water storage; (4-5-00)

e. Pumps, pump facilities, and controls; (4-5-00)

f. Monitoring and reporting and data verification; (4-5-00)

g. System management and operation; and (4-5-00)

h. Operator compliance with state requirements. (4-5-00)

~~65~~74. SDWIS-State. An acronym that stands for "Safe Drinking Water Information System-State Version". It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

~~66~~75. Significant Deficiency. As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction

of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

~~6~~76. Special Irrigation District. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

~~68~~77. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

~~69~~78. Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

7~~0~~9. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

~~71~~80. Specific Ultraviolet Absorption (SUVA). SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

~~72~~81. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

~~73~~82. Transient Noncommunity Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

~~74~~83. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

~~75~~84. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

~~76~~85. **Uncovered Finished Water Storage Facility**. An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

~~77~~86. **Unregulated Contaminant**. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

~~7~~87. **Variance**. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. (12-10-92)

~~79~~88. **Very Small Public Drinking Water System**. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

8~~0~~9. **Volatile Organic Chemicals (VOCs)**. VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

~~81~~90. **Vulnerability Assessment**. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

~~82~~91. **Waiver**. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, “waiver” means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

~~83~~92. **Water for Human Consumption**. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

~~84~~93. **Water Main**. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

94. **Water Main Extension**. As used in Subsection 551.04, an extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. ( )

~~8~~**95.** **Well House**. A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, distribution line, or a treatment unit. Well houses are often called pump houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

013. Use Of Guidance.
Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility standards and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the reviewing authority not substitute his or her judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ( )

~~996~~014.ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

~~997~~015.CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality". (3-15-02)

016. Office Hours -- Mailing Address And Street Address.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

~~013~~017. -- 049.(RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

549. Facility And Design Standards - DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.
No person shall proceed, or cause to proceed, with construction of a new community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 551.04 of these rules. The Department shall issue its approval of the new system capacity demonstration in writing. ~~*(4-5-00)*~~(____)

01. Technical Capacity. In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

a. The system meets the relevant design, construction, and operating requirements of Sections 550, 551, and 552 of these rules; (4-5-00)

b. The system has an adequate and consistent source of water; (4-5-00)

c. A plan is in place to protect the water source and deal with emergencies; (4-5-00)

d. A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)

e. The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-3-03)

02. Financial Capacity. A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules (see Sections 550, 551, and 552). This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (4-5-00)

b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (4-5-00)

c. Adequate fiscal controls must be demonstrated. (4-5-00)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new drinking water system shall submit at least the following

information to the Department: (4-5-00)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; (4-5-00)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

c. The name, address, and telephone number of the system operator; (4-5-00)

d. A description of the manner in which the water system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; (4-5-00)

e. A description of staffing should be provided, including training, experience, certification or licensing, and continuing education completed by the water system staff; (4-5-00)

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. (4-5-00)

05. Expanding Systems. A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

06. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

07. Exclusion. New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

550. <u>Facility And Design Standards -</u> DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.

01. System Design. Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems shall be in conformance with these rules and "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers," ~~*as set forth in Subsection 002.02.c*~~ except Parts One (1) and Eight (8). ~~*(4-6-05)*~~( )

02. Materials. Unless otherwise authorized by the Department on a site-specific basis, materials that are used to construct public drinking water systems and have water contact surfaces must comply with applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 53, 58, or 61. Corrosion control shall be taken into account during all aspects of public water system design. (4-6-05)

03. Wells. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

a. Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (5-3-03)

i. An evaluation of the potability and quality of anticipated groundwater. (5-3-03)

ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. (5-3-03)

v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)

vi. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

b. Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (5-3-03)

c. Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection

002.02.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (5-3-03)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

d. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f. This applies to new well construction and repair of existing wells. (5-3-03)

e. Upon completion of a groundwater source, and prior to its use as drinking water, the following information and data must be submitted by the water system to the Department: (5-3-03)

i. A copy of all well logs; (12-10-92)

ii. Results of test pumping, as specified in Subsection 550.03.f.; (5-3-03)

iii. As constructed plans showing at least the following: (12-10-92)

(1) Annular seal, including depth and sealant material used and method of application; (5-3-03)

(2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that publication; (5-3-03)

(3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

(4) Pump location; and (12-10-92)

(5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. (5-3-03)

iv. Other information as may be specified by the Department. (12-10-92)

v. Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in

Subsection 551.01. (5-3-03)

f. Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

i. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval. (5-3-03)

ii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, and re-developed. (5-3-03)

iii. The following data shall be provided: (5-3-03)

(1) Static water level in the well prior to test pumping; (5-3-03)

(2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

(3) Water level in the well recorded at regular intervals during pumping; (5-3-03)

(4) Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

(5) Depth at which the test pump was positioned in the well; (5-3-03)

(6) Test pump capacity and head characteristics; (5-3-03)

(7) Sand production data. (5-3-03)

(8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)

iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.f.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in

determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (5-3-03)

v. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer is sufficient to meet the long-term water requirements of the project. (____)

g. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (5-3-03)

h. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection; (4-6-05)

i. A pressure gauge shall be provided at all installations; (12-10-92)

j. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (5-3-03)

k. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the final ground surface. (4-6-05)

l. The following requirements apply to well casings and seals: (12-10-92)

i. Casings shall extend a minimum of eighteen (18) inches above the final ground surface and, if the well is located within a well house, twelve (12) inches above the well house floor. (4-6-05)

ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)

iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)

iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)

m. The following requirements apply to well houses as defined in Section 003, unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (4-6-05)

i. Well houses shall be protected from flooding and be adequately drained. The floor surface shall be at least six (6) inches above the final ground surface. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (4-6-05)

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (5-3-03)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.02.d., or other procedure approved by the Department shall be followed. (5-3-03)

n. Wells shall not be located in pits. Exceptions to Subsection 550.03.l. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

o. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

p. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. With any source out of service, the remaining

source or sources shall be capable of providing either the peak hour demand of the system or maximum daily pumping demand plus equalization storage. The Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: (4-6-05)

i. Population served or number of service connections; (5-3-03)

ii. Length of water mains; (5-3-03)

iii. Peak or average water demand per connection. (5-3-03)

q. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

r. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (5-3-03)

i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)

iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. (5-3-03)

v. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

04. Springs. For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (5-3-03)

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (5-3-03)

05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water. (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of Giardia lamblia cysts; and (10-1-93)

(1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

(2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

(3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

(4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)

v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)

vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter

backwashing, cleaning or media replacement. (12-10-92)

vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (5-3-03)

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)

ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)

b. Filtration technology. (12-10-92)

i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)

ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)

iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

(1) That the filtration technology: (12-10-92)

(a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

(b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)

(2) Using field studies or other means acceptable to the Department, that the filtration technology: (12-10-92)

(a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (5-3-03)

(b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)

i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)

iii. The system's pilot study plan shall identify at a minimum: (12-10-92)

(1) The objectives of the pilot study; (12-10-92)

(2) Pilot filter design; (12-10-92)

(3) Water quality and operational parameters to monitor; (12-10-92)

(4) Amount of data to collect; and (12-10-92)

(5) Qualifications of the pilot plant operator. (10-1-93)

iv. The system shall ensure that the pilot study is: (12-10-92)

(1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

(2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

(3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)

(4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

d. New systems constructed after July 1, 1985, are required to install redundant disinfection components as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (5-3-03)

06. Distribution System. Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)

a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)

b. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (5-3-03)

c. All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. (4-6-05)

d. Booster pumps must comply with the following: (12-10-92)

i. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (5-3-03)

ii. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (4-6-05)

iii. Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. (5-3-03)

e. Pipe and jointing materials ~~*and standards will*~~ comply with the ~~*following:*~~ standards set forth in Subsection 550.02. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: ~~*(12-10-92)*~~( )

i. Pipe~~*, packing*~~ and joint~~*ing*~~ materials ~~*shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.02.k., or other standards approved in writing by the Department.*~~ which do not allow permeation of the organic compounds shall be used; and ~~*(4-6-05)*~~( )

ii. ~~*Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system.*~~ Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. ~~*(12-10-92)*~~( )

~~*iii. All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.02.k.* (4-6-05)~~

f. Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (5-3-03)

g. ~~*Water and non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following*~~

~~*standards shall be met*~~ The relation between potable and non-potable water mains shall be as follows: ~~*(5-3-03)*~~(____)

i. ~~*The water and non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the non-potable main shall be constructed to water main standards; and*~~ Non-potable mains in relation to potable water mains. ~~*(4-6-05)*~~(____)

(1) Parallel installation requirements: (____)

(a) Greater than ten (10) feet separation: no conditions. (____)

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main to be constructed with potable water class pipe. (____)

(c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment and non-potable main to be constructed of potable water class pipe. (____)

(d) Potable and non-potable water mains shall never be installed in the same trench. (____)

(2) Non-potable mains crossing potable water mains requirements: (____)

(a) Eighteen (18) inches or more vertical separation with potable water main above non-potable main. Non–potable main joint to be as far as possible from the potable water main. (____)

(b) Less than eighteen (18) inches vertical separation: Non-potable main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main, or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. (____)

ii. ~~*The water main shall be a minimum of eighteen (18) inches above the non-potable water main.*~~ Non-potable services in relation to potable services and non-potable services in relation to water mains. ~~*(4-6-05)*~~(____)

(1) Parallel installation requirements: (____)

(a) Greater than six (6) feet separation: no conditions. (____)

(b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (____)

(c) Never in the same trench. (____)

(2) Non-potable services crossing potable water services or potable water mains

requirements: ( )

(a) Eighteen (18) inches or more vertical separation with potable water service or main above non-potable service; non-potable joint as far as possible from crossing. ( )

(b) Less than eighteen (18) inches vertical separation or potable water service or main below non-potable service: non-potable service or main constructed with potable water class pipe and non-potable joint as far as possible from crossing; or, sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ( )

~~***h.*** *The requirements for vertical separation of water and non-potable water mains are as follows:* *(4-6-05)*~~

~~*i.* *At any point where the non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches.* *(5-3-03)*~~

~~*ii.* *At any point where the non-potable water main crosses above the water main, the non-potable water main shall be supported to prevent settling.* *(5-3-03)*~~

~~*iii.* *At any point where the non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the non-potable water main.* *(5-3-03)*~~

~~*iv.* *If the eighteen (18) inch vertical separation cannot be maintained, the non-potable water main shall be constructed of materials conforming to water main standards.* *(4-6-05)*~~

~~*v.* *In lieu of constructing or reconstructing the non-potable water main either the non-potable water main or water main may be protected by a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing.* *(4-6-05)*~~

~~***i.***~~**h.** A minimum horizontal distance of twenty-five (25) feet shall be maintained between ~~*a*~~ any water distribution pipe and a septic tank and subsurface sewage disposal system ~~*and any water distribution pipe*~~. ~~*(12-10-92)*~~( )

~~***j.***~~**i.** All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of ~~*five*~~ two and one-half (2.5) feet per second. ~~*(5-3-03)*~~( )

i. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. ( )

ii. No water main flushing device shall be directly connected to any sewer. ( )

~~***k.***~~**j.** Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.02.k. (4-6-05)

~~***l.***~~**k.** Water mains shall be separated by at least five (5) feet from buildings, industrial

facilities, and other permanent structures. (5-3-03)

~~m~~l. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. (5-3-03)

~~n~~m. All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-3-03)

i. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

ii. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

n. A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. ( )

o. Automatic air relief valves shall be equipped with a means of backflow protection. ( )

p. Surface water crossings, whether over or under water, shall be constructed as follows: ( )

i. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. ( )

ii. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: ( )

(1) The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and ( )

(2) Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and ( )

(3) Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. ( )

07. Cross Connection. There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other

contaminating materials may be discharged or drawn into a public water system. ~~*(5-3-03)*~~(____)

a. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. Reference should be made to the AWWA "Cross Connection Control Manual," as specified in Subsection 002.02.n. of these rules. The program will include: (4-6-05)

i. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-3-03)

ii. Required installation and operation of adequate backflow prevention assemblies. A selection chart for various facilities, fixtures, equipment, and uses of water is provided in Subsection 900.02 (Table 2). (4-6-05)

iii. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. (4-6-05)

iv. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)

v. If double check valves and/or reduced pressure principle backflow prevention assemblies and/or pressure vacuum breakers are used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research and meet the American Water Works Association C-510 or C-511 standard, or an equivalent standard approved by the Department. (4-6-05)

vi. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

vii. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention assemblies, and pressure vacuum breakers are installed. (5-3-03)

b. All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a licensed tester, as specified in Subsection 550.07.a.iii. (4-6-05)

08. Water Storage. Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

a. All storage reservoirs shall be protected from flooding; (12-10-92)

b. Stored water shall be protected from contamination; (12-10-92)

i. No public water supply storage tank shall be located within five hundred (500) feet

of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (5-3-03)

ii. No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (5-3-03)

c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (5-3-03)

e. Overflows shall be downturned, discharge to daylight, and be provided with either: (4-6-05)

i. A twenty-four (24) mesh noncorrodible screen installed within the pipe when practical, or; (4-6-05)

ii. An expanded metal screen installed within the pipe plus a weighted flapper valve, or; (4-6-05)

iii. An equivalent system acceptable to the Department. (4-6-05)

f. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. (4-6-05)

g. Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)

h. The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

i. There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, or any other source of contamination. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (5-3-03)

j. Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. (5-3-03)

k. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (5-3-03)

l. All unused subsurface storage tanks shall be removed and backfilled, or

abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (5-3-03)

09. Disinfection. Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.02.k., prior to being placed into service. (4-6-05)

10. Violations. Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

551. Facility And Design Standards - CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

01. Engineering Report. For all new water systems or material modifications to existing water systems, an engineering report shall be submitted for ~~*the Department's*~~ review and approval by the Department, or other reviewing authority in the case of water main extensions, prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: ~~*(12-10-92)*~~( )

a. A general description and location of the project; (12-10-92)

b. The estimated design population of the project; (12-10-92)

c. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)

d. Storage requirements; (12-10-92)

e. Pressure ranges for normal and peak flow conditions; (12-10-92)

f. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. (5-3-03)

g. Adequacy, quality and availability of sources of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation of legal water rights sufficient to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. (5-3-03)

h. Describe the sewerage system and sewage treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. ( )

i. Characterize the various wastes from the water treatment plant, if applicable, their volume, constituents, proposed treatment and disposal. If discharging to a sanitary sewerage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. ( )

~~**h**~~**j.** For a community system, results of analysis for total coliform, inorganic chemical

contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

~~i~~k. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

~~j~~l. For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-3-03)

~~k~~m. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)

~~l~~n. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)

~~m~~o. Potential sources of contamination to proposed sources of water; (12-10-92)

~~n~~p. Mechanisms for protection of the system from flooding; (12-10-92)

~~o~~q. In addition to the items listed in Subsections 551.01.a. through 551.01.~~n~~p., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: ~~(12-10-92)~~(____)

i. Hydrological and historical ~~low~~ stream flow data; ~~(12-10-92)~~(____)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

~~p~~r. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site evaluation report as required in Subsection 550.03.a. for wells and Subsection 550.04 for springs; (5-3-03)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

iv. If the water is to be treated, summarize the adequacy of proposed processes and unit parameters for the treatment of the specific water. Bench scale testing, pilot studies, or demonstrations of treatment adequacy may be required. (____)

s. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: ( )

i. The character of the soil through which water mains are to be laid; ( )

ii. Foundation conditions prevailing at sites of proposed structures; and ( )

iii. The approximate elevation of ground water in relation to subsurface structures. ( )

02. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

03. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review of Plans and Specifications. "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers" except Parts One (1) and Eight (8), and all applicable laws, rules, and standards shall be applied in the review of plans and specifications for public water system facilities. With respect to water main extensions, as defined in Section 003, these rules shall apply. "Idaho Guidance for Public Drinking Water Systems" shall be used only to provide assistance in applying and interpreting these rules. ~~*(12-1-92)*~~( )

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve ten (10) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review~~,~~ and ~~*approved*~~ approval. ~~*The minimum review requirements are as follows:*~~ Plans and specifications for water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a qualified Idaho licensed professional engineer who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. ~~*(4-6-05)*~~( )

b. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgement for that of the owner's design engineer concerning the manner of compliance with the rule.( )

c. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 551.04.c. with such records including the final decision rendered and the timeliness thereof. ( )

~~*i*~~**d.** Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; except that the Department will accept the seal of an Idaho registered professional geologist on the following: (5-3-03)

~~*(1)*~~i. Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04. (5-3-03)

~~*(2)*~~ii. Plans and specifications for well construction and results of field inspection and testing, as specified in Subsections 550.03.e. and 550.03.f. (5-3-03)

~~*ii. Plans shall provide topographical data; (12-10-92)*~~

~~*iii. Plans shall show location of sources or potential sources of contamination. If a separate, non-potable irrigation system is to be provided, the irrigation system shall be fully documented in the plans and specifications; (5-3-03)*~~

~~*iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.02.k. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (4-6-05)*~~

~~*v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.02.k. (4-6-05)*~~

e. Plans and specifications shall, where pertinent, provide the following: ( )

i. General layout, including: ( )

(1) Suitable title; ( )

(2) Name of municipality or other entity or person responsible for the water supply; ( )

(3) Area or institution to be served; ( )

(4) Scale of drawings; ( )

(5) North point; ( )

(6) Datum used; ( )

(7) General boundaries of municipality or area to be served; ( )

(8) Date, name, and address of the designing engineer; ( )

(9) Legible prints suitable for reproduction; ( )

(10) Location and size of existing water mains, if applicable; and ( )

(11) For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ( )

ii. Detailed plans, including: ( )

(1) Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels; ( )

(2) Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets; ( )

(3) Topography and arrangement of present or planned wells or structures; ( )

(4) Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities; ( )

(5) Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Subsection 550.03.e; ( )

(6) Location of all known existing and potential sources of pollution which may affect the water source or underground treated storage facilities; ( )

(7) Size, length, and materials of proposed water mains; ( )

(8) Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools; ( )

(9) Schematic flow diagrams and hydraulic profiles showing the flow through various plant units; ( )

(10) Piping in sufficient detail to show flow through the plant including waste lines; ( )

(11) Locations of all chemical storage areas, feeding equipment, and points of chemical application; ( )

(12) All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures; ( )

(13) Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department; ( )

(14) Locations, dimensions, and elevations of all proposed plant facilities; ( )

(15) Locations of all sampling taps; and ( )

(16) Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ( )

iii. Complete, detailed technical specifications shall be supplied for the proposed project, including: ( )

(1) A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service; ( )

(2) Laboratory facilities and equipment; ( )

(3) Description of chemical feeding equipment; ( )

(4) Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service; and ( )

(5) Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ( )

iv. Complete design criteria, as set forth in these rules. ( )

v. The Department may require additional information which is not part of the construction drawings, including but not limited to head loss calculations, proprietary technical data, and copies of contracts, ( )

***b*f.** Except for water main extensions, as set forth in Subsection 551.04.a., *D*during construction or modification, the Department must be notified of any *substantial* material deviation from the approved plans. The Department's prior written approval is required before any *substantial* material deviation is allowed. *(4-6-05)*( )

c. *Within thirty (30) days after the completion of construction, the water system shall submit to the Department plans and specifications prepared and stamped by an Idaho registered professional engineer responsible for supervision of construction observation on behalf of the owner. These plans and specifications shall depict the actual construction and illustrate alterations or modifications performed, based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer.*

~~*(4-6-05)*~~

~~***d.*** *If actual construction of the water system does not deviate from the originally approved plans and specifications, the water system may submit a written statement to this effect, prepared and stamped by an Idaho registered professional engineer. This statement shall be based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer.* *(5-3-03)*~~

g. Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 551.04.a., record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by a qualified Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ( )

05. Exception. A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. ~~*(5-3-03)*~~( )

06. Construction. No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

07. Source. Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

08. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," as specified in Subsection 002.02.p., may be used as guidance for installation of water mains. In addition, the following provisions shall apply: ( )

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards or manufacturer's standard for high-density polyethylene. ( )

b. New, cleaned, and repaired water mains shall be disinfected in accordance AWWA Standard C651. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. ( )

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual agressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as

encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. (____)

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two (2) systems. (____)

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. (____)

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. (____)

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. (____)

0~~8~~9. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the groundwater, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. (5-3-03)

552. Facility And Design Standards - OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. (12-1-92)

a. Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows. (5-3-03)

b. Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (including fire flow) to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. ~~(5-3-03)~~(____)

ii. Any public water system constructed or significantly modified after July 1, 1985, shall maintain a minimum pressure of forty (40) psi throughout the distribution system~~, at peak hour flow during peak day of the year~~, during maximum hourly demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ~~(5-3-03)~~(____)

(1) Existing water systems that are planning to expand their service area shall meet the

criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area. ~~*Such systems should upgrade pressure standards in the existing system at the same time as the expansion occurs.*~~ ~~*(5-3-03)*~~( )

(2) Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (5-3-03)

iii. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. (5-3-03)

iv. The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation.( )

~~i~~v. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. (5-3-03)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

d. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

02. Additives. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.02.k., and be listed as approved under ANSI/NSF standard 60 or 61, as ~~*set forth*~~ specified in Subsections 002.02.l.~~*i.*~~ and 002.02.m.
~~*(4-6-05)*~~( )

03. Groundwater. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

04. Operating Criteria. The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve

(12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes - Upper Mississippi River Board of Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department. (4-6-05)

c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)

05. Chlorination. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Section 300 and Subsection 550.05. (4-6-05)

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (4-6-05)

i. Chlorinator capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (4-6-05)

ii. A detectable chlorine residual shall be maintained throughout the distribution system. (4-6-05)

iii. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

iv. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

v. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.a.i. (4-6-05)

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.02.c. (12-10-92)

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: (4-6-05)

i. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (4-6-05)

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.05.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (4-6-05)

06. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.02.k. Use of other chemicals shall be specifically approved by the Department. (4-6-05)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

901. -- ~~995~~999.(RESERVED).

Section 996 Has Been Moved to Section 014

Section 997 Has Been Moved to Section 015

~~***998. Inclusive Gender.***~~
~~*For the purposes of these rules, words used in the masculine gender include the feminine, or vice*~~

~~*versa, where appropriate.*~~ ~~*(10-1-93)*~~

~~***999. Severability.***~~
~~*Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules For Public Drinking Water Systems," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of these rules.*~~ ~~*(10-1-93)*~~