SENATE HEALTH AND WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2007 Legislative Session

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.16 - ACCESS TO HEALTH INSURANCE PROGRAM

DOCKET NO. 16-0316-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective dates for the amendments to the temporary rules are July 1, 2006, and December 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-239, 56-240, and 56-250 through 56-257, Idaho Code.

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

The amendments to this docket include the addition of definitions for the Access to Health Insurance Program and Children's Access Card and a section for Participant Eligibility for those programs. The payment of a premium to an insurance vendor was amended to clarify that it could be for a full or partial payment. The CMS has granted approval for the Medicaid Health Insurance Flexibility and Accountability (HIFA) waiver amendment and the employer's share requirement is amended to reflect that approval.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 482 through 492.

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

There is no fiscal impact to the state General Fund due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 8th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-239, 56-240, and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules in compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act," SB1417 (2006), and HCR50 (2006).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Date:	**Wednesday, August 16, 2006**	**Thursday, August 17, 2006**	**Tuesday, August 22, 2006**
Time:	**7:00 p.m.**	**7:00 p.m.**	**7:00 p.m.**
Place:	**Idaho Falls Public Library** **457 Broadway** **Idaho Falls, ID** **Phone: (208) 612-8455**	**Coeur d'Alene Inn** **Hayden Conference Room** **506 W Appleway Ave.** **Coeur d'Alene, ID**	**DHW - Region IV Office** **1720 Westgate Dr.** **Suite D, Room 119** **Boise, ID**

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

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

As part of the implementation of the "Medicaid Modernization and Simplification Act" (HB 776), approved by the 2006 Legislature, the Department has reorganized the access to health insurance program. The rules for the children's access card and premium assistance programs are being moved into this new chapter which will be called "Premium Assistance." This will combine the adult and children's access card premium assistance programs into one chapter of rule.

The changes to this chapter will: allow more children and working adults to be eligible and to qualify for Access Card coverage and health insurance benefits through their employers; and encourage better participation by small business employers in the program to meet insurance carrier requirements for employer contributions as amended by the 2006 Legislature. These rules describe the eligibility criteria, benefits, and reimbursement payment process.

In their new location, these rules will continue to provide Medicaid programs for Children's Access Card and Premium Assistance.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kate Vandenbroek at (208) 334-5747.

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 August 23, 2006.

DATED this 30th day of June, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
Under Section 56-202(b), Idaho Code, the Legislature has delegated to the Department of Health and Welfare the responsibility to establish and enforce such rules as may be necessary or proper to administer public assistance programs within the state of Idaho. Under Sections 56-241 and 56-242, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to implement a ~~*Small Business Health Insurance Pilot program, which is a*~~ premium assistance program including eligibility criteria, benefits, and reimbursement. ~~*This program is named the Access to Health Insurance Program*~~. The Idaho Department of Health and Welfare is the designated agency to administer programs under Title XIX and Title XXI of the Social Security Act. ~~*(4-11-06)*~~(7-1-06)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 16.03.16, "~~*Access to Health Insurance Program*~~ Premium Assistance." ~~*(4-11-06)*~~(7-1-06)T

02. Scope. Under Sections 56-241 and 56-242, Idaho Code, these rules describe the general provisions regarding the administration of the ~~*Access to Health Insurance*~~ Premium Assistance Programs. These rules identify eligibility criteria, benefits, and reimbursement. ~~*(4-11-06)*~~(7-1-06)T

03. Policy. It is the policy of the Department~~*, under Section 56-209(b), Idaho Code,*~~ that the Access to Health Insurance Program is available to individuals who are found eligible under these rules. The Children's Access Card participants are found eligible under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." ~~*(4-11-06)*~~(7-1-06)T

002. WRITTEN INTERPRETATIONS.
~~*There are no written interpretations for these rules.*~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ~~*(4-11-06)*~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

05. Internet Website. The Department's internet website is found at "http://www.healthandwelfare.idaho.gov." ~~*The program website is "http://www.AccesstoHealthInsurance.idaho.gov."*~~ ~~*(4-11-06)*~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

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

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse and Misconduct." (7-1-06)T

009. (RESERVED).

010. DEFINITIONS.

~~***01. Adult**. An individual who is at least eighteen (18) years of age and is not a dependent child. (4-11-06)*~~

~~***02. Applicant**. An individual applying for premium assistance under these rules who is employed by, or is the spouse or dependent child of someone who is employed by, an Idaho Small Business. (4-11-06)*~~

~~***03. Application**. Two (2) forms used to determine eligibility. One (1) is a standard form for insurance coverage and one (1) is a supplemental form for Department use only. (4-11-06)*~~

***01. Access to Health Insurance**. A premium assistance program available to Idaho small business employers to help provide private insurance for their employees. (7-1-06)T*

***02. Children's Access Card**. A premium assistance program that pays a premium subsidy toward a private health insurance plan for children who choose to participate in the program. (7-1-06)T*

0~~4~~3. COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985). A federal law that requires most employers to allow eligible employees and their beneficiaries to continue to self-pay for their coverage after it normally terminates for up to eighteen (18), twenty-four (24), twenty-nine (29), or thirty-six (36) months. (4-11-06)

~~***05. Creditable Health Insurance**. Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease or other supplemental-type benefits. (4-11-06)*~~

0~~6~~4. Co-Payment (Co-pay). The amount a participant is required to pay for specified services as required by the participant's private health insurance coverage. ~~*(4-11-06)*~~(7-1-06)T

0~~7~~5. Cost-Sharing. A payment the participant is required to make toward the cost of their health care as required by the participant's private health insurance coverage. ~~*(4-11-06)*~~(7-1-06)T

0~~8~~6. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. ~~(4-11-06)~~(7-1-06)T

~~**09. Dependent**. A dependent is an unmarried child under the age of nineteen (19) years or a spouse. (4-11-06)~~

~~**10. Employee**. Employee means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (32) hours per week. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer. It does not include an employee who works on a part-time, temporary, and seasonal or substitute basis. (4-11-06)~~

~~**11. Family**. Individuals related by marriage and any dependent child(ren) of either individual. An unmarried, childless individual is a family of one (1). (4-11-06)~~

~~**12. Family Size**. The individuals counted to determine eligibility. (4-11-06)~~

~~**13. Federal Poverty Guideline (FPG)**. Federal Poverty Guideline is a measure of income issued annually by the Department of Health and Human Services (HHS). (4-11-06)~~

~~14~~07. Insurance Carrier. An insurance company regulated by the Idaho Department of Insurance. (4-11-06)

~~15~~08. Insurance Representative. An Insurance Representative is the acting intermediary between the Department of Health and Welfare and the participating small business employer. (4-11-06)

~~16~~09. Insurance Vendor. An insurance carrier authorized to receive payments from the Department. (4-11-06)

~~**17. Institution**. A facility either under the control of the Idaho Department of Corrections or a facility primarily engaged in providing diagnosis, treatment or care of persons with mental diseases. (4-11-06)~~

~~18~~10. Participant. An individual receiving premium assistance under these rules ~~who is employed by, or is the spouse or dependent child of someone who is employed by an Idaho Small Business~~. ~~(4-11-06)~~(7-1-06)T

~~**19. Participating Employer**. A small business employer with a signed employer agreement on file with the Department. (4-11-06)~~

~~20~~11. Premium. A regular and periodic charge or payment for health coverage. (4-11-06)

~~21~~12. Premium Assistance. The partial or total premium payment made to an insurance

company to supplement the cost of enrolling a program participant in a health insurance plan. (4-11-06)

~~**22.** **Renewal**. A review of all the eligibility criteria for a given participant to determine participation continuance. (4-11-06)~~

~~**23.** **Slot**. A placeholder for an adult who is applying for or participating in the Access to Health Insurance program. (4-11-06)~~

~~**24.** **Small Business Employer**. A Small Business Employer is a person, firm, corporation, partnership or association that is actively engaged in business that employs an average of at least two (2) but no more than fifty (50) employees during a calendar year. In determining the number of employees, companies that are affiliated companies, or are eligible to file a combined tax return for purposes of state taxation, will be considered one (1) employer. (4-11-06)~~

~~**25.** **Small Group Health Plan**. A health benefit plan as defined in Title 41, Chapter 47, Idaho Code. (4-11-06)~~

~~**26**~~**13.** **Social Security Act**. 42 U.S.C. 101 et seq., authorizing, in part, federal grants to the states for health care assistance to eligible low-income individuals. (4-11-06)

~~**27**~~**14.** **State**. The state of Idaho. (4-11-06)

~~**28**~~**15.** **Title XIX** ~~**Medicaid**. Medical assistance programs authorized under~~ Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. ~~(4-11-06)~~(7-1-06)T

~~**29**~~**16.** **Title XXI** ~~**State Children's Health Insurance Program (SCHIP)**. Programs authorized under~~ Title XXI of the Social Security Act ~~for child health insurance~~, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. ~~(4-11-06)~~(7-1-06)T

011. ACCESS TO HEALTH INSURANCE - DEFINITIONS.
The following definitions apply to Sections 100 through 410 of these rules. (7-1-06)T

01. Adult. An individual who is at least eighteen (18) years of age and is not a dependent child. (7-1-06)T

02. Applicant. An individual applying for premium assistance under these rules who is employed by, or is the spouse or dependent child of someone who is employed by a participating employer. (7-1-06)T

03. Application. Two (2) forms used to determine eligibility. One (1) is a standard form for insurance coverage and one (1) is a supplemental form for Department use only. (7-1-06)T

04. **Creditable Health Insurance**. Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease or other supplemental-type benefits. (7-1-06)T

05. **Dependent**. A dependent is an unmarried child under the age of nineteen (19) years or a spouse. (7-1-06)T

06. **Employee**. Employee means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (30) hours per week. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer. It does not include an employee who works on a part-time, temporary, and seasonal or substitute basis. (7-1-06)T

07. **Family**. Individuals related by marriage and any dependent child(ren) of either individual. An unmarried, childless individual is a family of one (1). (7-1-06)T

08. **Family Size**. The individuals counted to determine eligibility. (7-1-06)T

09. **Federal Poverty Guideline (FPG)**. Federal Poverty Guideline is a measure of income issued annually by the Department of Health and Human Services (HHS). (7-1-06)T

10. **Institution**. A facility either under the control of the Idaho Department of Corrections or a facility primarily engaged in providing diagnosis, treatment or care of persons with mental diseases. (7-1-06)T

11. **Participating Employer**. A Small Business Employer in Idaho with a signed employer agreement on file with the Department. (7-1-06)T

12. **Renewal**. A review of all the eligibility criteria for a given participant to determine participation continuance. (7-1-06)T

13. **Slot**. A placeholder for an adult who is applying for or participating in the Access to Health Insurance program. (7-1-06)T

14. **Small Business Employer**. A Small Business Employer is a person, firm, corporation, partnership or association that is actively engaged in a business in Idaho. A small business employs an average of at least two (2) but no more than fifty (50) employees during a calendar year. In determining the number of employees, companies that are affiliated companies, or are eligible to file a combined tax return for purposes of state taxation, will be considered one (1) employer. (7-1-06)T

15. **Small Group Health Plan**. A health benefit plan as defined in Title 41, Chapter 47, Idaho Code. (7-1-06)T

01~~1~~2. -- 0~~9~~19. (RESERVED).

020. REVIEW OF RECORDS.
The Department and the U.S. Department of Health and Human Services have the right to review pertinent records of insurance vendors receiving premium assistance payments. (7-1-06)T

021. -- 029. (RESERVED).

~~5~~030. PARTICIPANT RIGHTS.
The participant has rights protected by federal and state laws and Department rules. The Department must inform participants of their rights during the application process and eligibility reviews. (4-11-06)

01. Right to Hearing. Any participant can request a hearing to contest a Department decision under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)

02. Civil Rights. Participants have civil rights under the U.S. and Idaho Constitutions, the Social Security Act, Title IV of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant parts of Federal and State laws. (4-11-06)

031. -- 03~~9~~4. (RESERVED).

035. PARTICIPANT ELIGIBILITY.

***01. Children's Access Card**. Eligibility for Children's Access Card participants is determined according to IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (7-1-06)T*

***02. Access to Health Insurance**. Eligibility for Access to Health Insurance participants is determined according to this chapter of rules. (7-1-06)T*

036. -- 039. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

501. -- 599. (RESERVED).

~~6~~040. PREMIUM ASSISTANCE.
~~*The Access to Health Insurance*~~ Premium Assistance programs pay~~s~~ a premium subsidy toward a private health insurance plan for a participant. ~~*The health insurance plan subsidized must be one regulated by Title 41, Chapter 47, Idaho Code.*~~ The rules governing payment ~~*and benefits*~~ are found in Sections~~*605 through Section 620*~~ 070 of these rules. ~~*(4-11-06)*~~(7-1-06)T

01. Children's Access Card. The health insurance plan subsidized is subject to and

must meet the requirements of Title 41, Chapter 4, Idaho Code. (7-1-06)T

02. Access to Health Insurance. The health insurance plan subsidized is subject to and must meet the requirements of Title 41, Chapter 47, Idaho Code. (7-1-06)T

041. -- 049. (RESERVED).

050. SCOPE OF BENEFITS AND COST-SHARING.
The scope of covered benefits and amounts of cost-sharing must be defined in the private health insurance plan subsidized under this chapter of rule. (7-1-06)T

01. Childhood Immunizations. Childhood immunizations are provided by the State if not covered by the private insurance plan. (7-1-06)T

02. Cost-Sharing. Cost-sharing may include co-insurance, co-payments, deductibles, and excess premium costs above the Department's premium subsidy. (7-1-06)T

03. No Duplicate Payments. The Department will not reimburse for premium assistance for the same month as a reimbursement request for services under either IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," is honored for the same participant. (7-1-06)T

051. -- 059. (RESERVED).

060. GENERAL VENDOR REQUIREMENTS.

***62*01. Vendor Application**. An insurance carrier that wants to participate in the *Access to Health Insurance* Department's premium assistance programs must apply to the Department and be approved for participation. The Department will confirm the vendor is an insurance carrier recognized by the Idaho Department of Insurance as having authority to sell health benefit plans *regulated by Title 41, Chapter 47, Idaho Code* in Idaho. *(4-11-06)*(7-1-06)T

0*1*2. Conforming Benefit Plan. The vendor must certify to the Department that the benefit plan meets the *definition of a health benefit plan regulated by Title 41, Chapter 47, Idaho Code.* following program specific requirements: *(4-11-06)*(7-1-06)T

a. The Children's Access Card Program plan must meet the definition of a health benefit plan that is subject to the requirements of Title 41, Chapter 4, Idaho Code. The benefit plan must include inpatient and outpatient hospital services, and physician medical and surgical services. (7-1-06)T

b. The Access to Health Insurance Program plan must meet the definition of a health benefit plan subject to the requirements of Title 41, Chapter 47, Idaho Code. (7-1-06)T

0*2*3. Vendor Application Denied. The Department will not approve the application of a vendor whose authority to sell insurance plans in the State of Idaho is suspended. (4-11-06)

04. Data Reporting Requirement. The Department requires insurance vendors

participating in the Children's Access Card program to provide data to the Department as necessary to comply with federal reporting requirements. (7-1-06)T

05. Children's Access Card Voucher. The insurance vendor is responsible to request the Children's Access Card voucher from the participant before issuing an insurance policy for which a premium subsidy is expected. (7-1-06)T

061. -- 069. (RESERVED).

070. GENERAL REIMBURSEMENT.

~~*605*~~**01. Insurance Premium Subsidy**. The Department ~~*or its designee*~~ will pay an insurance premium subsidy to an insurance vendor in *full or* partial payment of a premium for a qualifying health benefit plan selected by a participating employer. The Department's payment will not exceed one hundred dollars ($100) each month for each participant. The total payment for eligible children in the same family will not exceed three hundred dollars ($300) each month. The total payment for a family will not exceed five hundred dollars ($500) each month. ~~*(4-11-06)*~~(7-1-06)T

~~*606*~~**02. No Subsidy For COBRA Coverage**. Premium assistance is not available for COBRA coverage. ~~*(4-11-06)*~~(7-1-06)T

~~*65*~~**03. Vendor Payment**. A vendor must prospectively invoice the Department each month for reimbursement of the premium subsidy. The Department must reimburse a vendor within thirty (30) days of receipt of the invoice for participants eligible for premium subsidy. ~~*(4-11-06)*~~(7-1-06)T

071. -- 099. (RESERVED).

ACCESS TO HEALTH INSURANCE EMPLOYER PARTICIPATION CRITERIA
(Sections 100 Through 299)

100. EMPLOYER PARTICIPATION.
An Idaho Small Business Employer who wants to participate in the Access to Health Insurance program must meet each of the following conditions: ~~*(4-11-06)*~~(7-1-06)T

01. Register Intent to Participate. The Small Business Employer or his insurance representative must electronically register the business' intent to participate in the program. The business is placed on a registration list ordered by the date and time stamp of the employer's registration. The business must indicate the number of program slots requested for adult applicants of the business. Placement on the employer registration list is not a guarantee of program participation. (4-11-06)

02. Qualify. The business must qualify for Small Group Health Insurance coverage as defined in Title 41, Chapter 47, Idaho Code. (4-11-06)

03. Idaho Business. The business must be physically located in Idaho and be actively engaged as an Idaho business. (4-11-06)

04. No Other Health Insurance. The employer must not be offering health insurance to employees when the business registers its~~'~~ intent to participate. ~~(4-11-06)~~(7-1-06)T

05. Eligible Employee. The business must have at least one (1) employee eligible for premium assistance. (4-11-06)

06. Employer Agreement. The employer must have a signed program participation agreement on file with the Department. (4-11-06)

07. Employer Share. The employer must pay at least fifty percent (50%) of *the* employee's premium~~*, or if the spouse also participates, fifty percent (50%) of the combined premium for the employee and spouse* *until approval of the Medicaid waiver amendment by the Centers for Medicare and Medicaid Services (CMS)*. *Upon approval of the Medicaid waiver amendment, the employer*~~ *and* must meet the~~*ir*~~ insurance carrier's contribution and participation guidelines. ~~(4-11-06)(7-1-06)T~~(12-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

241. -- 2~~9~~49. (RESERVED).

~~4~~250. PARTICIPATION VACANCY.
When a program slot is vacated, the opportunity to fill the vacancy is offered first to participating employers prior to an employer on the registration list. (4-11-06)

251. -- 299. (RESERVED).

ACCESS TO HEALTH INSURANCE PARTICIPANT ELIGIBILITY CRITERIA
(Sections 300 Through 410)

(BREAK IN CONTINUITY OF SECTIONS)

320. INDIVIDUAL NON-FINANCIAL ELIGIBILITY CRITERIA.
An individual who wants to participate in the Access to Health Insurance program must meet each of the following conditions: (4-11-06)

01. Employer Participates. The individual must be employed by, or be a dependent of an employee of, a participating employer. (4-11-06)

02. Application. The individual must submit an application through the insurance representative for premium assistance to the Department. (4-11-06)

03. Citizen or Permanent Resident Alien. The individual must be a United States citizen or permanent resident alien. (4-11-06)

04. Residency. The individual must voluntarily live in Idaho and have no immediate intention of leaving. (4-11-06)

05. Institution. The individual must not be a resident of an institution at the time of application or renewal. (4-11-06)

06. No Health Insurance. An individual must not have creditable health insurance at the time of application, and must not have disenrolled from creditable health insurance in the six (6) months prior to his application with the intent to qualify for the Access to Health Insurance Program. (4-11-06)

07. ~~*Title XIX Medicaid*~~ Not Title XIX Eligible. The individual must not be eligible for a Title XIX Medicaid Program. ~~*(4-11-06)*~~(7-1-06)T

08. No Other Assistance. The individual must not receive health care assistance through any other program funded by Title XIX or Title XXI for the same month an Access to Health Insurance premium subsidy payment is made on the participant's behalf. (4-11-06)

09. Proof of Insurance. The individual must provide proof of creditable health insurance coverage for any and all dependent children under the age of nineteen (19) if premium assistance is not requested for the children. (4-11-06)

10. Medical Support. An individual who is the non-custodial parent of a dependent child may satisfy a medical support order for that child by providing the child's health insurance through the Access to Health Insurance Program unless the child is found eligible for health care assistance in another home. The child will be disenrolled from the Access to Health Insurance Program and enrolled in the ~~*direct coverage*~~ health care assistance program for which they are eligible. The change of coverage is effective the first of the following month. ~~*(4-11-06)*~~(7-1-06)T

11. Delinquent ~~*CHIP-B*~~ Premiums. A child's premium payments for ~~*CHIP-B*~~ participation in an Idaho Medicaid program must not be more than sixty (60) days in arrears. ~~*(4-11-06)*~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

355. FAMILY FINANCIAL ELIGIBILITY CRITERIA.

01. Income Limit. The gross family income must not exceed one hundred and eighty-five percent (185%) of the Federal Poverty Guideline (FPG) for the family size. (4-11-06)

02. Adult's Income Counted. The earned and unearned income of each adult counted

in the family size is counted when determining family income. The income of a dependent child is not counted. (4-11-06)

03. Determining Income Eligibility for the Month of Application. Countable income for the application month is calculated using the requirements of IDAPA 16.03.01, "Rules Governing Eligibility for Health Care Assistance for Families and Children," Sections 34~~6~~5 through 354, 356, 370, and 372 through 385. ~~*(4-11-06)*~~(7-1-06)T

04. Excluded Income. Income that belongs to a child but is paid in the name of the parent or caretaker is excluded from the countable income determination. (4-11-06)

05. No Income Deductions. No deductions are applied to family countable income. (4-11-06)

06. Income Exclusions. Income excluded from the family countable income is defined in IDAPA 16.03.01, "Rules Governing Eligibility for Health Care Assistance for Families and Children," Section 385. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

410. ANNUAL RENEWAL.
Each participant's eligibility must be renewed at least annually. The renewal is a review of all eligibility factors. (4-11-06)

01. Renewal Application Required. Each participant must submit an annual renewal application to continue participation in the program. (4-11-06)

02. Eligibility Criteria Must Be Met. All eligibility criteria specified in these rules except that in Section 320.06 must be met at each renewal to continue participation in the program. (4-11-06)

03. Interim Renewal. The renewal may be conducted prior to the annual renewal date to coincide with a change in insurance coverage. (4-11-06)

04. Closure of Benefits. Failure to complete the renewal process or failure to meet eligibility criteria at renewal will result in closure of program benefits. Each participant must be notified at least ten (10) calendar days prior to the effective date of the action. ~~*(4-11-06)*~~(7-1-06)T

411. -- ~~44~~99. (RESERVED)

Section 450 has been moved to Section 250

~~***451. -- 499. (RESERVED).***~~

Section 500 has been moved to Section 030

~~501. -- 599. (RESERVED).~~

Section 600 has been moved to Section 040

~~601. -- 604. (RESERVED).~~

Section 605 has been moved to Subsection 070.01

Section 606 has been moved to Subsection 070.02

~~607. -- 614. (RESERVED).~~

~~615. BENEFITS AND COST-SHARING.~~
~~*Participating private health insurers must define the covered benefits and amounts of cost-sharing provided by the plan, subject to the requirements set forth in Title 41, Chapter 47, Idaho Code. Cost-sharing may include co-insurance, co-payments, deductibles, and excess premium costs above the Department's premium subsidy.* (4-11-06)~~

~~616. -- 619. (RESERVED).~~

Section 620 has been moved to Section 060

~~621. -- 649. (RESERVED).~~

Section 650 has been moved to Subsection 070.03

~~651. -- 999. (RESERVED).~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.17 - SERVICE COORDINATION

DOCKET NO. 16-0317-0601 (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 2007 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 56-202, 56-203, and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act."

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 493.

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 Pam Mason at (208) 364-1863.

DATED this 6th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Medicaid Modernization and Simplification Act".

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

DEPARTMENT OF HEALTH & WELFARE ***Docket No. 16-0317-0601***
Service Coordination ***PENDING RULE***

Date:	**Wednesday, August 16, 2006**	**Thursday, August 17, 2006**	**Tuesday, August 22, 2006**
Time:	**7:00 p.m.**	**7:00 p.m.**	**7:00 p.m.**
Place:	**Idaho Falls Public Library**	**Coeur d'Alene Inn**	**DHW - Region IV Office**
	457 Broadway	**Hayden Conference Room**	**1720 Westgate Dr.**
	Idaho Falls, ID	**506 W Appleway Ave.**	**Suite D, Room 119**
	Phone: (208) 612-8455	**Coeur d'Alene, ID**	**Boise, ID**

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 entire chapter of rules is being repealed. The Department is developing a new chapter of rules regarding Medicare/Medicaid coordinated plan benefits that will be published under IDAPA 16.03.17 in the future under a new docket.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Pam Mason at (208) 364-1863.

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 Wednesday, August 23, 2006.

DATED this 30th day of June, 2006.

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

IDAPA 16.03.17 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-3305, 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.

In this pending rule, the Department has amended the proposed rule date for final compliance in Section 152, Admissions Policies, containing the grandfather clause related to fire-suppression sprinklers for certain facilities that accept residents who are incapable of self-evacuation. The date for final compliance has been changed from July 1, 2007, to July 1, 2010.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and the section changed is being republished following this notice. The Department amended the pending rule with the same revisions that have been made in the amendment to the temporary rule. The amendment to the temporary rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, pages 85 through 87. Only the Section that has changes different from the original temporary and proposed text is printed in this bulletin. The complete original text of the temporary and proposed rule was published in the August, 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 504 through 512.

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:

This rulemaking has no fiscal impact on Medicaid costs or the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randy May at (208) 334-5747.

DATED this 3rd day of November, 2006.

DEPARTMENT OF HEALTH & WELFARE ***Docket No. 16-0322-0601***
Residential Care or Assisted Living Facilities ***PENDING RULE***

THIS NOTICE WAS PUBLISHED WITH THE AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amended temporary rule is July 20, 2006.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has amended a previously adopted temporary rule. The action is authorized pursuant to Section 39-3305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for amending the temporary rule:

This rule change amends the date for final compliance in Section 152, Admission Policies, containing the grandfather clause related to fire-suppression sprinklers for certain facilities that accept residents who are incapable of self-evacuation. The date for final compliance has been changed from July 1, 2007, to July 1, 2010.

The text of the temporary rule is being amended in accordance with Section 67-5226, Idaho Code, and the section being amended is being republished following this notice. Only Section 152 in which the changes have been made is printed in this bulletin. The original text of the temporary and proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 504 through 513.

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

This amendment is necessary to protect the public health, safety, or welfare.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

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

This rulemaking has no fiscal impact on Medicaid costs or the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this amendment to temporary rule, contact Randy May at (208) 334-5747.

DATED this 20th day of July, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

DEPARTMENT OF HEALTH & WELFARE ***Docket No. 16-0322-0601***
Residential Care or Assisted Living Facilities ***PENDING RULE***

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-3305, Idaho Code. Changes in Section 940 are being made based on House Bill 565 (2006).

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, August 16, 2006.

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

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

In January 2006, during the legislative review process for the rewritten rule governing Residential Care or Assisted Living Facilities (RCALFs) in Idaho (Docket No. 16-0322-0502), the Department committed to promulgating a temporary rule, at the first window of opportunity at the close of the session. These rules add a grandfather clause to the section of rule requiring fire-suppression sprinklers for certain facilities that accept residents who are incapable of self-evacuation. This will allow those facilities covered under the grandfather clause in the previous rule additional time to come into compliance with the sprinkler requirements in the rewritten rule. The intent of this rule change is that effective July 1, 2007, all facilities that accept residents who are incapable of self-evacuation must have a fire-suppression sprinkler system installed.

The section of rule regarding "Written Interpretations" is being revised to eliminate ambiguity in the wording which may be misconstrued to mean that written interpretations may be used to implement substantive requirements in the rule. The Department is also removing references to "administrators" from Enforcement Section 940 since they are subject to the requirements of the Bureau of Occupational Licenses under HB 565 (2006).

Several other minor revisions will be done as well to clarify requirements in the rule so as to better assure compliance.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: it is necessary to protect the public health, safety, or welfare.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

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

This rulemaking has no fiscal impact on Medicaid costs or the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was

conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 23, 2006.

DATED this 14th day of June, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS.
~~*These rules may be implemented through informational letters generated and maintained by the Department.*~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules.
~~*(3-30-06)*~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

01. Owner. Any person or entity, having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-30-06)

02. Personal Assistance. The provision by the staff of the facility of one (1) or more of the following services as outlined in the Negotiated Service Agreement: (3-30-06)

a. Assisting the resident with activities of daily living and instrumental activities of daily living. (3-30-06)

b. Arranging for supportive services. (3-30-06)

c. Being aware of the resident's general whereabouts and supervision. (3-30-06)

d. Monitoring the activities of the resident while on the premises of the facility to assure the resident's health, safety, and well-being. (3-30-06)

e. Assisting residents with self-administration of medication. (3-30-06)

03. Personnel. Paid individuals assigned the responsibility of providing care and supervision and services to the facility and its residents. (3-30-06)

04. Physical Restraint. Any device or physical force that restricts the free movement of, normal functioning of, or normal access to a portion or portions of an individual's body except for treatment of a medical condition. (3-30-06)

05. Portable Heating Device. Any device designed to provide heat on a temporary basis; is not designed as part of a building's heating system; is not permanently affixed to the building; and, if electrical, is not hardwired to the building's electrical service. This does not include the therapeutic devices of heating pads, heated mattress pads and electric blankets which require a physician or authorized provider's order. (3-30-06)

06. PRN. Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. (3-30-06)

07. Pressure Ulcer. Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). Although friction and shear are not primary causes of pressure ulcers, friction and shear are important contributing factors to the development of pressure ulcers. (3-30-06)

08. Provisional License. A license which may be issued to a facility not in compliance with the rules pending the satisfactory correction of all deficiencies. (3-30-06)

09. Psychosocial History. A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's abilities and limitations which will assist in identifying appropriate resources. (3-30-06)

10. Publicly Funded Programs. Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. (3-30-06)

11. Punishment. Any action in which an adverse consequence is presented to a resident that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or the administration of any noxious or unpleasant stimulus or deprivation of a resident's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. (3-30-06)

12. Relative. A person related by birth, adoption, or marriage to the first degree and grandparent and grandchild. (3-30-06)

13. Repeat Deficiency. A deficiency found on a resurvey, complaint investigation, or follow-up survey that was also found on the previous survey or visit. (3-30-06)

14. Resident. An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential care or assisted living facility. (3-30-06)

15. Residential Care or Assisted Living Facility. A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. In this chapter, Residential Care or Assisted Living Facilities are referred to as "facility." Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules. (3-30-06)

16. Room and Board. Lodging, meals, and utilities. (3-30-06)

17. Scope. The frequency or extent of the occurrence of a deficiency in a facility. (3-30-06)

18. Self-Evacuating Resident. A resident who is able to leave the building without one-on-one (1 on 1) or hands-on assistance and can remain at a designated location. (3-30-06)

19. Self Preservation. The ability of a person to independently avoid situations and circumstances in which he might be easily taken advantage of, and to protect themselves and property. (3-30-06)

20. Short Term. A treatment window designed to allow a resident to receive treatment for a short term acute episode, usually fourteen (14) days or less, as determined by a licensed professional nurse. (3-30-06)

21. Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. (3-30-06)

22. Story Above Grade Plane. Any story having its finished floor surface entirely above grade plane, except that a basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) more than six (6) feet (1829 mm) above grade plane, (2) more than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) more than twelve (12) feet (3658 mm) above the finished ground level at any point. (3-30-06)

23. Substantial Compliance. A facility is in substantial compliance with these rules when no core issues have been cited as a deficiency during any survey. (3-30-06)

24. Substantial Evening Meal. An offering of three (3) or more menu items at one-time, one (1) of which includes a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional

requirements. (3-30-06)

25. Supervision. A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. (3-30-06)

26. Supportive Services. Services provided to the resident in the community. (3-30-06)

27. Survey. A review conducted by a surveyor to determine compliance with statutes and rules. There are two (2) components to a survey, health care and fire life safety and sanitation. (3-30-06)

28. Surveyor. A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-30-06)

29. Syringe -- Oral Feeding. Use of a syringe to deliver liquid or pureed nourishment directly into the mouth. (3-30-06)

30. Therapeutic Diet. A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, or to eliminate or decrease specific nutrients in the diet, (e.g. sodium) or to increase specific nutrients in the diet (e.g. potassium) or to provide food the resident is able to eat (e.g. mechanically altered diet). (3-30-06)

31. Traumatic Brain Injury (TBI). An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psycho-social behavior; physical functions; information processing; and speech. (3-30-06)

32. Trust Account. An account maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to a resident. The facility is the trustee of such accounts and the residents are the beneficiaries. (3-30-06)

33. Uniform Assessment Instrument (UAI). A set of standardized criteria to assess functional and cognitive abilities of the resident. (3-30-06)

34. Unlicensed Assistive Personnel (UAP). Unlicensed assistive personnel (UAP) employed to perform nursing care services under the direction and supervision of licensed nurses. UAP also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (3-30-06)

35. Variance. Permission by the Department to do something contrary to rule. (3-30-06)

36. **Waiver Services**. Home and Community Based (HCBS) Services. (3-30-06)

37. **Waivered Level Three Small Facility**. An existing facility, licensed prior to July 1, 1992, that: (7-1-06)T

a. Serves residents who require extensive assistance with mobility; (7-1-06)T

b. Houses nine (9) or fewer residents on the first story only; and (7-1-06)T

c. Complies with the requirements of Chapter 21, Residential Board and Care Section for Prompt Evacuation Capability, of the National Fire Protection Association (NFPA), Life Safety Code, 1988 Edition. (7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

152. ADMISSION POLICIES.

01. **Admissions**. Each facility must develop written admission policies and procedures. The written admission policy must include; (3-30-06)

a. The purpose, quantity and characteristics of available services; (3-30-06)

b. Any restrictions or conditions imposed because of religious or philosophical reasons. (3-30-06)

c. Limitations concerning delivery of routine personal care by persons of the opposite gender. (3-30-06)

d. Notification of any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed at "http://www.isp.state.id.us/identification/sex_offender/public_access.html". (3-30-06)

e. Appropriateness of placement to meet the needs of the resident, when there are non resident adults or children residing in the facility. (3-30-06)

02. **Fee Description**. A written description of how fees will be handled by the facility. (3-30-06)

03. **Resident Funds Policies**. When a resident's funds are deposited with the facility or administrator, the facility must manage the residents' funds as provided in Sections 39-3316 (1), (5) & (6), Idaho Code, and Section 505 and Subsections 550.05 and 550.06 of these rules. Each facility must develop written policies and procedures outlining how residents' funds will be handled. (3-30-06)

a. A statement if the facility does not manage resident funds. (3-30-06)

b. If the facility manages resident funds, how funds are handled and safeguarded. (3-30-06)

04. Resident Admission, Discharge, and Transfer. The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. (3-30-06)

05. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include: (3-30-06)

a. A resident will be admitted or retained only when the facility has the capability, capacity, and services to provide appropriate care, or the resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for, or if the facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services; (3-30-06)

b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: (3-30-06)

i. A resident who has a gastrostomy tube, arterial-venous (AV) shunts, or supra-pubic catheter inserted within the previous twenty-one (21) days; (3-30-06)

ii. A resident who is receiving continuous total parenteral nutrition (TPN) or intravenous (IV) therapy; (3-30-06)

iii. A resident who requires physical restraints, including bed rails, an exception is a chair with locking wheels or chair in which the resident can not get out of; (3-30-06)

iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within fourteen (14) to thirty (30) days; (3-30-06)

v. A resident who is on a mechanically supported breathing system, except for residents who use CPAP, (continuous positive airway pressure); (3-30-06)

vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; (3-30-06)

vii. A resident who is fed by a syringe; (3-30-06)

viii. A resident with open, draining wounds for which the drainage cannot be contained; (3-30-06)

ix. A resident with a Stage III or IV pressure ulcer; (3-30-06)

x. A resident with any type of pressure ulcer or open wound that is not improving bi-weekly; (3-30-06)

xi. A resident who has MRSA (methiccillin-resistant staphylococcus aureus) in an active stage (infective stage). (3-30-06)

c. For any resident who has needs requiring a nurse, the facility must assure a licensed nurse is available to meet the needs of the resident. (3-30-06)

d. A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility; (3-30-06)

e. A resident that is violent or a danger to himself or others; (3-30-06)

f. Any resident requiring assistance in ambulation must reside on the first story unless the facility complies with Sections 401 through 404 of these rules; (3-30-06)

g. Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with the NFPA Standard #101, "Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;" and (3-30-06)

h. Until July 1, 200~~7~~*10*, Waivered Level 3 Small Facilities will be exempt from complying with the requirements under Subsection 152.05.g. of this rule, including the requirement to have at least a residential fire sprinkler system. On July 1, 200~~7~~*10*, all Waivered Level 3 Small Facilities that admit or retain residents who are incapable of self-evacuation will be required to comply with the requirements under Subsection 152.05.g. of this rule. This includes being equipped with at least an operable residential fire sprinkler system. Any facility sold prior to July 1, 200~~7~~*10*, must meet the requirements under Subsection 403.03 of these rules before a new license will be issued. ~~(7-1-06)T~~*(7-20-06)T*

(BREAK IN CONTINUITY OF SECTIONS)

221. REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.

01. Conditions for Termination of the Admission Agreement. The admission agreement cannot be terminated, except under the following conditions: (3-30-06)

a. Giving the other party thirty (30) calendar days written notice for any reason; (3-30-06)

b. The resident's death; (3-30-06)

c. Emergency conditions that requires the resident to be transferred to protect the resident or other residents in the facility from harm; (3-30-06)

d. The resident's mental or medical condition deteriorates to a level requiring care as

described in Section 33-3307, Idaho Code, and Subsection 152.05 of these rules; (3-30-06)

e. Nonpayment of the resident's fees; (3-30-06)

f. When the facility can not meet resident needs due to changes in services, in house or contracted, or inability to provide the services; ~~*and*~~ or ~~*(3-30-06)*~~(7-1-06)T

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator and the administrator of the facility at the time of admission. (3-30-06)

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care or assisted living facilities, and certified family homes that may meet the needs of the resident. (3-30-06)

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges with the exception of an involuntary discharge in the case of non-payment, emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. (3-30-06)

a. Before a facility discharges a resident, the facility must notify the resident, and if known, a family member, or his legal representative of the discharge and the reasons for the discharge. (3-30-06)

b. This notice must be in writing and in a language and manner the resident or his representative can understand. (3-30-06)

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-30-06)

a. The reason for the discharge; (3-30-06)

b. Effective date of the discharge; (3-30-06)

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; (3-30-06)

d. The name and address of where the appeal must be submitted; (3-30-06)

e. The name, address, and telephone number of the local ombudsman, for residents sixty (60) years of age or older; and (3-30-06)

f. The name, address and telephone number of CO-AD, for residents with developmental disabilities or mental illness. (3-30-06)

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge

becomes null and void and the discharge notice applies. (3-30-06)

h. When the notice does not contain all the above required information, the notice is void and must be reissued. (3-30-06)

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

940. ENFORCEMENT REMEDY OF REVOCATION OF FACILITY LICENSE.

01. Revocation of Facility's License. The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules. (3-30-06)

02. Reasons for Revocation or Denial of a Facility License. The Department may revoke or deny any facility license for any of the following reasons: (3-30-06)

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; (3-30-06)

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (3-30-06)

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; (3-30-06)

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (3-30-06)

e. The licensee has violated any of the conditions of a provisional license; (3-30-06)

f. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; (3-30-06)

g. Licensee refuses to allow the Department or the Protection and Advocacy agencies full access to the facility environment, facility records, and the residents as described in Subsections 130.04 through 130.06, and 550.18 through 550.19 of these rules; (3-30-06)

h. The licensee ~~or administrator~~ has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care or assisted living facility or certified family home; ~~(3-30-06)~~(7-1-06)T

i. The licensee ~~or administrator~~ is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; ~~(3-30-06)~~(7-1-06)T

j. The licensee ~~or administrator~~ has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; ~~(3-30-06)~~(7-1-06)T

k. The licensee ~~or administrator~~ is of poor moral and responsible character or has been convicted of a felony or defrauding the government; ~~(3-30-06)~~(7-1-06)T

l. The licensee ~~or administrator~~ has been denied, or the licensee's wrong doing, has caused the revocation of any license or certificate of any health facility, residential care or assisted living facility, or certified family home; ~~(3-30-06)~~(7-1-06)T

m. The licensee ~~or administrator~~ has been convicted of operating any health facility or residential care or assisted living facility without a license or certified family home without a certificate; ~~(3-30-06)~~(7-1-06)T

n. The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in Subsection 940.02.m. of these rules; (4-11-06)

o. The licensee is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (4-11-06)

p. The licensee is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years; (4-11-06)

q. The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; (4-11-06)

r. The licensee fails to take sufficient corrective action as described in Sections 900, 905 and 910 of these rules; or (4-11-06)

s. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (4-11-06)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4601 et seq., Idaho Code; also Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 513 through 516.

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 Cameron Gilliland at (208) 334-5536.

DATED this 3rd day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-4601 et seq., Idaho Code; also Sections 56-202(b) and 56-203(g), 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, August 16, 2006.

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

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

Providers of developmental disabilities agency (DDA) services have identified a gap in services available to people with developmental disabilities. Most direct services available in a DDA are delivered by paraprofessionals or Master's level professionals. Providers have suggested that there should be an optional service that could be delivered by bachelor's level social workers and would meet the objectives of the service of "Supportive Counseling" as identified in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners."

The proposed rule changes define the service of supportive counseling and identify staff qualifications, participant eligibility requirements, therapy goals, outcome measures, and service limitations for this new service.

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

FEE SUMMARY: There is no fee or charge being imposed or increased in this rulemaking.

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

There is no fiscal impact to the state general fund as a result of this rule change. However, under the companion Medicaid docket (Docket No. 16-0309-0603) the increased cost for addition of this new benefit is projected to be $11,875 per year.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the Developmental Disabilities Council and Idaho Association of Developmental Disabilities Agencies (IADDA).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cameron Gilliland at (208) 334-5536.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 23, 2006.

DATED this 3rd day of May, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

011. DEFINITIONS -- P THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (7-1-06)

01. Paraprofessional. A person, such as an aide or therapy technician, who is qualified to assist a qualified professional in providing services to persons with developmental disabilities. (7-1-06)

02. Participant. A person who has been identified as having a developmental disability as defined in this chapter, and who is receiving services through a DDA. (7-1-06)

03. Person-Centered Planning Process. A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (7-1-06)

04. Person-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (7-1-06)

05. Plan Developer. A paid or nonpaid person identified by the participant who is responsible for developing an ISP and subsequent addenda that covers all services and supports, based on a person-centered planning process. (7-1-06)

06. Plan Monitor. A person who oversees the provision of services on the ISP on a paid or non-paid basis. The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles. (7-1-06)

07. Plan of Service. An initial or annual plan that identifies services and supports. Plans are developed annually. In this chapter of rules, “plan of service” may refer to any of the following: IFSP, IPP, or ISP. (7-1-06)

08. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. (7-1-06)

09. Prior Authorization (PA). A process for determining a participant's eligibility for

services and medical necessity prior to the delivery or payment of services in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services." (7-1-06)

10. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. (7-1-06)

11. Program Implementation Plan. A plan that details how DDA goals from the plan of service will be accomplished. (7-1-06)

12. Provider. An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. (7-1-06)

13. Provider Status Review. The written documentation that identifies a participant's progress toward goals defined in the ISP. (7-1-06)

14. Provisional Certificate. A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, and not exceeding, six (6) months. (7-1-06)

15. Psychotherapy. Treatment methods using a specialized, formal interaction between a qualified professional and an individual, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, or intrapersonal, interpersonal, and psychosocial dynamics, or the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. (7-1-06)

16. Qualified Professional. A professional delivering services within the scope of his practice and in accordance with the requirements of this chapter. (7-1-06)

17. Rehabilitation. The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. (7-1-06)

18. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. (7-1-06)

19. Service. Assessment, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-06)

20. Service Coordination. Service coordination is an activity that assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. The delivery of service coordination is governed by IDAPA 16.03.17, "Service Coordination." (7-1-06)

21. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.17, "Service Coordination."

(7-1-06)

22. **Specific Skill Assessment**. A type of assessment used to determine the baseline or the need for further intervention for the discipline area being assessed. (7-1-06)

23. **Staff**. Employees or contractors of an agency who provide services, including those persons with whom the agency has a formal, written agreement. (7-1-06)

24. **Supervision**. Initial direction and procedural guidance by a qualified professional and periodic inspection of the actual work performed at the service delivery site. (7-1-06)

25. **Supportive Counseling**. A method used by qualified professionals to assist individuals with developmental disabilities to learn how to solve problems and make decisions about personal, social, relationship, and other interpersonal concerns. Supportive counseling does not seek to reach unconscious material. (7-1-06)T

2~~5~~6. **Supports**. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

601. GENERAL REQUIREMENTS FOR ASSESSMENT RECORDS.

01. **Completion of Assessments**. Assessments must be completed or obtained prior to the delivery of therapy in each type of service. (7-1-06)

02. **Update of Assessments**. Assessments or updates are required in disciplines in which services are being delivered and when recommended by a professional. (7-1-06)

03. **Psychological Assessment**. A current psychological assessment must be completed or obtained: (7-1-06)

a. When the participant is receiving a behavior modifying drug(s); (7-1-06)

b. Prior to the initiation of restrictive interventions to modify inappropriate behavior(s); (7-1-06)

c. Prior to the initiation of supportive counseling; (7-1-06)T

~~c~~d. When it is necessary to determine eligibility for services or establish a diagnosis; (7-1-06)

~~d~~e. When a participant has been diagnosed with mental illness; or (7-1-06)

~~e~~**f.** When a child has been identified to have a severe emotional disturbance. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

720. OPTIONAL SERVICES.
DDAs may opt to provide any of the following services: pharmacological management, psychiatric diagnostic interviews, community crisis supports, collateral contact, ~~*and*~~ Intensive Behavioral Intervention (IBI), and supportive counseling. All services must be provided by qualified individuals in accordance with the requirements in Section 420 of these rules.
~~*(7-1-06)*~~(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

726. SUPPORTIVE COUNSELING.

01. Psychological Assessment. The initial and ongoing need for the service of supportive counseling must be recommended in a current psychological assessment. (7-1-06)T

02. On Plan of Service. Supportive counseling must be provided in accordance with the requirements for the plan of service. The type, amount, frequency and duration of this service must be specified on the plan of service. (7-1-06)T

03. Staff Qualifications. Supportive counseling must be provided by a professional listed under Subsection 712.02 of these rules or by a licensed social worker (LSW). (7-1-06)T

72~~6~~7. -- 799. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and is also adopting this rule as a temporary rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 USC Sections 8621 to 8629.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule.

The pending rule is being adopted as proposed. The original text of the temporary and proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, pages 88 through 94.

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

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: These rule amendments are being made to meet deadlines in federal regulations and to confer a benefit to low-income residents of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 1st day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures

have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 U.S.C. Sections 8621 to 8629, also known as the Low-Income Home Energy Assistance Act of 1981.

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 20, 2006.

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

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

The Department has been directed by the federal government to remove barriers to the Low Income Home Energy Assistance Program in order to participate in the program. The following changes to the rules are:

1) **The requirement for energy conservation education and audit as a condition of participation is being removed;**
2) **To meet the current poverty levels, the benefit amounts and eligibility levels will be published and distributed through the Department's manual and website, and through community action agencies;**
3) **The LIHEAP Intake Manual was incorporated by reference into the chapter of rules; and**
4) **Households with children under six (6) years of age, individuals with disabilities, and individuals over sixty (60) years of age will be the target population for adjusted benefits.**

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) (b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To meet deadlines in federal regulations and to confer a benefit to low income residents of Idaho.

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

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

There is no anticipated fiscal impact to the state general fund and this program is 100% federally funded.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these changes are required by federal law and are providing a benefit to low-income families in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Genie Sue Weppner at (208) 334-5656.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this 3rd day of August, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
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P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
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THE FOLLOWING IS THE TEXT FOR THE PENDING RULE

000. LEGAL AUTHORITY.
This program is authorized by ~~*Section 2602, Title XXVI, Pub. L. No. 97-203, also known as*~~ the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, and by provisions of Section~~s~~ 56-202 ~~*and 56-203,*~~ Idaho Code~~*, which authorize the Department of Health and Welfare to assist low-income people of the state with financial assistance and to enter into contracts with the federal government to provide assistance*~~. ~~*(7-1-99)*~~(9-1-06)T

001. TITLE, ~~*AND*~~ SCOPE, AND LIMITATIONS.

01. Title. These rules are to be cited ~~*in full*~~ as ~~*Idaho Department of Health and Welfare Rules,*~~ IDAPA 16.04.14, "Rules Governing the Low Income Home Energy Assistance Program," and may also be known as LIHEAP. ~~*(7-1-99)*~~(9-1-06)T

02. Scope. The intent of the program is to provide assistance to eligible low income households particularly those with the lowest incomes, that pay the highest proportion of their income for home energy, primarily in meeting their immediate home energy needs. (7-1-99)

03. Program Limitation. This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year. ~~*(7-1-99)*~~(9-1-06)T

002. ~~*POLICY*~~ WRITTEN INTERPRETATIONS.
~~*It is the policy of the Idaho Department of Health and Welfare, to serve the citizens of Idaho and to distribute the Low Income Home Energy Assistance benefits in accordance with acceptable*~~

~~*standards. An eligible participant household will receive one (1) benefit payment from the regular program assistance.*~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ~~*(3-15-02)*~~(9-1-06)T

003. ADMINISTRATIVE APPEALS.
Appeals and proceedings are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (9-1-06)T

004. INCORPORATION BY REFERENCE.
The following document is incorporated by reference in this chapter of rule: Low Income Home Energy Assistance Program (LIHEAP) Intake Manual, 2006. The manual is available on the Internet at http://www.healthandwelfare.idaho.gov/Portals/_Rainbow/Manuals/SRBenefits/SR_eManuals.htm. The manual is also available at the mailing address listed in Section 005 of this rule, and at Community Action Agencies. (9-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (9-1-06)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (9-1-06)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (9-1-06)T

04. Telephone. (208) 334-5500. (9-1-06)T

05. Internet Website. Department Internet address is: "http://www.healthandwelfare.idaho.gov." (9-1-06)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (9-1-06)T

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Public records in the custody of the Department of Health and Welfare are subject to disclosure, unless otherwise exempted by state or federal law. (9-1-06)T

007. (RESERVED).

008. AUDIT, INVESTIGATION, AND ENFORCEMENT.

In addition to any actions specified in these rules, the Department may audit, investigate, and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (9-1-06)T

009. (RESERVED).

0~~03~~10. DEFINITIONS.
Definitions applicable to ~~IDAPA 16.04.14 are listed in Subsections 003.01 through 003.23~~ this chapter of rules. ~~(7-1-99)~~(9-1-06)T

~~**01. Application**. The action by which a participant indicates in writing to the Department a desire to receive Low Income Home Energy Assistance. The participant will be designated as the head of household on the application; and will be the recipient of benefits for the household. (7-1-99)~~

0~~2~~1. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which ~~DHW~~ the Department has entered into a contract for the provision of services for purposes of LIHEAP. ~~(7-1-99)~~(9-1-06)T

02. Crisis Assistance. Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (9-1-06)T

03. Department. The Department of Health and Welfare or its designee. ~~(7-1-99)~~(9-1-06)T

~~**04. Eligible Participant Household**. A participant household which meets the standard of eligibility set forth in these rules.. (7-1-99)~~

~~**05. Eligible Subsidized Housing**. Public subsidized rental housing in which the tenant is responsible for all or a portion of their home energy costs. (7-1-99)~~

~~**06. Emergency Assistance**. Energy assistance provided to an eligible participant household to reduce/eliminate an energy related health threatening situation to the household. (3-15-02)~~

~~**07. Energy Burden**. The expenditures of the participant household for home energy when compared to the household's income. (7-1-99)~~

~~**08. Energy Supplier**. A vendor supplying home heating energy who is not a member of an eligible participant household. (7-1-99)~~

0~~9~~4. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-99)

~~**10. Fuel**. A latent form of energy used to produce residential heat. (7-1-99)~~

~~11~~05. Head of Participant Household. The person designated by the household

members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)

~~**12. Highest Home Energy Needs**. *The home energy requirements of participant household determined by taking into account both their energy burden and unique situation that results from having members of vulnerable populations, including very young children, individuals with disabilities and frail older individuals.* (7-1-99)~~

~~**13**~~**06. Income**. Income is the gross amount of moneys actually received in the participant household from all sources. (4-5-00)

~~**14. Ineligible Subsidized Housing**. *Public housing in which tenants' rental payments include all home energy costs.* (7-1-99)~~

~~**15. Overpayment**. *An incorrect energy assistance payment.* (7-1-99)~~

07. Intake Manual. Manual used by community action agencies for procedural policy and benefit calculation factors, which is published annually by the Department. (9-1-06)T

~~**16**~~**08. Participant**. An individual or group of individuals ~~*which*~~ who has made application for the Low Income Home Energy Program from the state of Idaho. ~~(7-1-99)~~(9-1-06)T

~~**17**~~**09. Participant Household**. A participant household is one (1) of the following: ~~(7-1-99)~~(9-1-06)T

a. An individual ~~*living*~~ who lives alone; or ~~(7-1-99)~~(9-1-06)T

b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or ~~*who*~~ they make undesignated payments for energy in the form of rent. ~~(7-1-99)~~(9-1-06)T

1~~8~~0. Primary Fuel. The type of fuel declared by the participant household to be the major source of their home heating. (7-1-99)

~~**19. Proof of Income**. *Documentary proof to establish the participant household's financial eligibility for assistance.* (7-1-99)~~

~~**20. Vendor**. *An energy supplier or utility supplying home energy and who is not a member of an eligible participant household.* (7-1-99)~~

~~**21. Warrant**. *The document issued by the Department through the State Controller's Office as the benefit payment to LIHEAP eligible participant households.* (7-1-99)~~

~~**22. Wood User**. *An individual who cuts or buys wood for use as the primary source of home heat. Such participant households will receive a one (1) party warrant.* (7-1-99)~~

~~**23**~~**11. Undocumented Resident**. Individuals who enter~~*ing*~~ the United States illegally

~~that~~ and who have not obtained legal resident status. ~~(3-15-02)~~(9-1-06)T

~~**24.** **Utility**. A vendor of energy regulated by the Idaho Public Utilities Commission. (7-1-99)~~

~~**004. ABBREVIATIONS.**~~
~~Abbreviations applicable to IDAPA 16.04.14 are listed in Subsections 004.01 through 004.08. (7-1-99)~~

~~**01.** **AABD**. Aid to the Aged, Blind, and Disabled. (7-1-99)~~

~~**02.** **CAA**. The Community Action Agency. (7-1-99)~~

~~**03.** **Department**. The Department of Health and Welfare. (7-1-99)~~

~~**04.** **FS**. The Food Stamp program. (7-1-99)~~

~~**05.** **LIHEAP**. The Low Income Home Energy Assistance Program. (7-1-99)~~

~~**06.** **OMB**. The Federal Office of Management and Budget. (7-1-99)~~

~~**07.** **SSI**. The Supplemental Security Income Program. (7-1-99)~~

~~**08.** **TAFI**. Temporary Assistance to Families in Idaho. (7-1-99)~~

Section 005 has Been Renumbered and Moved to Section 105

0~~06~~11. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~0~~105. FORMS~~-- BY NUMBER AND A NAME~~.
~~For the purposes of determining participant LIHEAP eligibility, Department prescribed forms will be used.~~ A participant household will apply on Department prescribed forms and designate a head of household. ~~(7-1-99)~~(9-1-06)T

10~~5~~6. -- 149. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

For the purpose of assistance under LIHEAP, the participant household must meet the following non-financial eligibility requirements. (7-1-99)

01. Residence. At the time the application is completed, the participant must reside in the state of Idaho. ~~*There is no durational residence requirement.*~~ LIHEAP benefits are not transferable to an out-of-state residence. ~~*(7-1-99)*~~(9-1-06)T

02. Living Situations. The participant household must reside in housing where they are ~~*vulnerable to a*~~ responsible for home energy costs and incur the costs either directly or as an undesignated portion of their rent. Living situations ~~*not vulnerable to*~~ where residents are not responsible for energy costs include~~,~~ hospitals~~;~~, nursing homes~~;~~, shelter homes, commercial boarding homes, and rehabilitation centers. ~~*(7-1-99)(9-1-06)T*~~

03. Native Americans. Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: (7-1-99)

a. Tribal funds are not available. (7-1-99)

b. Funds are depleted and an emergency exists. (7-1-99)

04. Resident Status. At least one (1) household member must be a citizen or legal resident of the United States. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. (3-15-02)

~~***05. Energy Conservation Education**. As part of the application for LIHEAP assistance, the participant must participate in an energy conservation education session. (7-1-99)*~~

~~***06. Residential Weatherization Energy Audit**. Participant households must agree to have an energy audit performed on their residence to determine weatherization needs of the dwelling. When one (1) or more of the following conditions exist, a waiver to the energy audit will be granted to the household: (7-1-99)*~~

~~***a.** The participant household residence has previously been weatherized by the CAA. (7-1-99)*~~

~~***b.** The participant household does not own their residence and is unable to obtain an agreement from the property owner. (7-1-99)*~~

~~***c.** The participant household can document the existence of a medical or other condition which prohibits the CAA from performing the energy audit on their residence. (7-1-99)*~~

(BREAK IN CONTINUITY OF SECTIONS)

204. BENEFIT DETERMINATION.
Eligible participant households will have their LIHEAP benefit determined as follows: (3-20-04)

01. Actual Consumption Method. The actual consumption method is used if the eligible participant household heats its residence with either natural gas or electricity and has resided in the residence for one (1) year or longer. Household benefit is calculated by multiplying the energy consumption cost by an annual benefit calculation factor. Annual minimum and maximum benefits per household are published each year in the Intake Manual used for LIHEAP. (3-20-04)

02. Average Annual Cost Method. The average annual cost method is used when the eligible participant household's actual consumption cost is unknown, or it uses a heating source other than electricity or natural gas. Average cost is determined by information provided by energy suppliers throughout the state and is published as the Annual Heating Cost Chart which is available from the Department of Health and Welfare. The average cost is specific to county of residence and the household's heating source. Household benefit is calculated by multiplying the Average Annual Cost by an annual benefit calculation factor. (3-20-04)

03. Annual Benefit Calculation Factor. Annual benefit calculation factors are determined each year based on the amount of federal funding for the upcoming program year. The particular factor used for a household's benefit calculation is determined by the household's energy cost burden (high, medium or low) expressed as a percentage of annualized income. A heating burden of zero percent (0%) to five percent (5%) is ~~*considered*~~ low, six percent (6%) to ten percent (10%) is medium, and eleven percent (11%) or greater is high. Benefit calculation methodology and the current benefit calculation factors are published in the Intake Manual used for LIHEAP, available at the Department ~~*of Health and Welfare*~~ or on its website, and at community action agencies. ~~*(3-20-04)*~~(9-1-06)T

04. Adjusting LIHEAP Benefit. ~~*Add an adjusted benefit of twenty-five dollars ($25) to the base benefit of*~~ Households containing at least one (1) of the following~~:~~ may be eligible for an adjusted benefit. The adjusted benefit amounts and eligibility levels will be published annually in the Intake Manual used for LIHEAP, available at the Department or on its website, and at community action agencies. ~~*(3-20-04)*~~(9-1-06)T

a. Child under six (6) years of age. (4-5-00)

b. Individual with disabilities as declared on the LIHEAP application form. (4-5-00)

c. Individual sixty (60) years of age or older. (4-5-00)

~~***d.*** *More than one (1) member.* *(3-20-04)*~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.07 - INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT

DOCKET NO. 16-0507-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-202(b), 56-203(a) and (b), 56-209, 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code.

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

The changes to this chapter of rules:

1. **Clarify that there are no written interpretations for this chapter of rules;**
2. **Replace the term "recipient" with the term "participant" to make language consistent with other Department rules; and**
3. **Add the phrase "The provider" in the provider agreement section for clarity.**

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 517 through 526.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To protect the public health, safety or welfare.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. There is no anticipated fiscal impact for this rule promulgation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Mond Warren at (208) 334-5997.

DATED this 6th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PORPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(a) and (b), 56-209, 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Date:	**Wednesday, August 16, 2006**	**Thursday, August 17, 2006**	**Tuesday, August 22, 2006**
Time:	**7:00 p.m.**	**7:00 p.m.**	**7:00 p.m.**
Place:	**Idaho Falls Public Library** **457 Broadway** **Idaho Falls, ID** **Phone: (208) 612-8455**	**Coeur d'Alene Inn** **Hayden Conference Room** **506 W Appleway Ave.** **Coeur d'Alene, ID**	**DHW - Region IV Office** **1720 Westgate Dr.** **Suite D, Room 119** **Boise, ID**

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

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

As part of the implementation of the "Medicaid Modernization and Simplification Act" (HB 776), approved by the 2006 Legislature, the Department has reorganized the investigation and enforcement rules regarding fraud, abuse, and misconduct, previously residing in the Medical Assistance chapter, and moved them into their own, separate chapter. These changes make the rules easier to find, navigate and use. These rules have been moved into IDAPA 16.05.07 and are entitled "Investigation and Enforcement of Fraud, Abuse, and Misconduct." In their new location, these rules continue to provide for the protection of the public health and safety of participants, help protect the integrity of the Medicaid program, and provide that appropriate actions be taken to protect the program recipients and

financial resources of the program.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To protect the public health, safety or welfare.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. There is no anticipated fiscal impact for this rule promulgation.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules are being moved from a chapter that is being repealed to this new chapter without any substantive changes being made to the content.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mond Warren at (208) 334-0609.

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 August 23, 2006.

DATED this 29th day of June, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare has the authority to establish and enforce rules to protect the integrity of the public assistance programs against fraud, abuse, and other misconduct under Sections 56-202(b), 56-203(a) and (b), 56-209, 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code, and under federal regulations. (7-1-06)T

001. TITLE, SCOPE AND POLICY.

01. Title. The title of this chapter is IDAPA 16.05.07, "The Investigation and

Enforcement of Fraud, Abuse, and Misconduct." (7-1-06)T

02. Scope. This chapter is intended to protect the integrity of the public assistance programs by identifying instances of fraud, abuse, and other misconduct by providers and their employees, ~~*recipients*~~ *participants*, and by providing that appropriate action is taken to correct the problem. ~~*(7-1-06)T*~~(7-1-06)T

03. Policy. Action will be taken to protect both program ~~*recipients*~~ *participants* and the financial resources of the public assistance programs. Where minimum federal requirements are exceeded, it is the Department's intent to provide additional protections. Nothing contained within this chapter shall be construed to limit the Department from taking any other action authorized by law, including seeking damages under Section 56-227B, Idaho Code. ~~*(7-1-06)T*~~(7-1-06)T

002. WRITTEN INTERPRETATIONS.
~~*In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules.*~~ *The Department has no written interpretations that apply to this chapter of rule according to Section 67-5201(19)(b)(iv), Idaho Code.* ~~*(7-1-06)T*~~(7-1-06)T

003. ADMINISTRATIVE APPEALS.
Appeals and proceedings for any Department actions are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." An appeal does not stay the action of the Department. (7-1-06)T

004. INCORPORATION BY REFERENCE.
42 CFR 455-23(b) is incorporated by reference into this chapter of rules. It is available from the Centers for Medicare and Medicaid Services (CMS), 7500 Security Blvd, Baltimore, MD, 21244-1850 or on the Code of Federal Regulations internet site at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html. (7-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (7-1-06)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (7-1-06)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (7-1-06)T

04. Telephone. (208) 334-5500. (7-1-06)T

05. Internet Website Address. Department Internet address is: http://www.healthandwelfare.idaho.gov. (7-1-06)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records," and federal Public Law 103-209 and 92-544. (7-1-06)T

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (7-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.
For purposes of this chapter of rules, the following terms will be used as defined below. (7-1-06)T

01. Abuse or Abusive. Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a medical assistance recipient. It also includes recipient practices that result in unnecessary cost to the Medicaid program, or recipient utilization practices which may endanger their personal health or safety. (7-1-06)T

02. Access to Documentation and Records. To review and copy records at the time a written request is made during normal business hours. Documentation includes all materials as described in Section 101 of these rules. (7-1-06)T

03. Claim. Any request or demand for payment of items or services under the state's medical assistance program, whether under a contract or otherwise. (7-1-06)T

04. Conviction. An individual or entity is considered to have been convicted of a criminal offense: (7-1-06)T

a. When a judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged; (7-1-06)T

b. When there has been a finding of guilt against the individual or entity by a federal, state, or local court; (7-1-06)T

c. When a plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court; or (7-1-06)T

d. When the individual or entity has entered into participation in a first offender,

deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. (7-1-06)T

05. Department. The Idaho Department of Health and Welfare, its authorized agent or designee. (7-1-06)T

06. Exclusion. A specific person or provider will be precluded from directly or indirectly providing services and receiving reimbursement under Medicaid. (7-1-06)T

07. Fraud or Fraudulent. An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. (7-1-06)T

08. Knowingly, Known, or With Knowledge. A person, with respect to information or an action, who: has actual knowledge of the information or an action; acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (7-1-06)T

09. Managing Employee. A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency. (7-1-06)T

10. Medicaid. Idaho's Medical Assistance Program. (7-1-06)T

11. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (7-1-06)T

12. Ownership or Control Interest. A person or entity that: has an ownership interest totaling twenty-five percent (25%) or more in an entity; is an officer or director of an entity that is organized as a corporation; is a partner in an entity that is organized as a partnership; or is a managing member in an entity that is organized as a limited liability company. (7-1-06)T

13. Person. An individual, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private. (7-1-06)T

14. Program. The Medicaid Program or any part thereof, including Idaho's State Plan. (7-1-06)T

15. Provider. Any individual, organization or business entity furnishing medical goods or services in compliance with Department rules who has a Medicaid provider number and has entered into a written provider agreement with the Department. (7-1-06)T

16. Provider Agreement. A written agreement between the Department and a provider or group of providers of supplies or services. This agreement contains any terms or conditions deemed appropriate by the Department. (7-1-06)T

17. Recoup and Recoupment. The collection of funds for the purpose of recovering overpayments made to providers for items or services the Department has determined should not have been paid. The recoupment may occur through the collection of future claims paid or other means. (7-1-06)T

18. Sanction. Any abatement or corrective action taken by the Department which is appealable under Section 003 of these rules. (7-1-06)T

19. State Plan. The contract between the state and federal government under 42 U.S.C. section 1396a(a). (7-1-06)T

20. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (7-1-06)T

21. Title XXI. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (7-1-06)T

011. -- 019. (RESERVED).

020. DEPARTMENT ACTIONS.
When an instance of fraud, abuse, or other misconduct is identified, the Department will take action to correct the problem as provided in this section. Such corrective action may include, denial of payment, recoupment, payment suspension, provider agreement suspension, termination of provider agreement, imposition of civil monetary penalties, exclusion, recipient lock-in, referral for prosecution, or referral to state licensing boards. (7-1-06)T

021. - 099. (RESERVED).

100. INVESTIGATION AND AUDITS.
Investigation and audits of provider fraud, abuse or misconduct conducted by the Department's Bureau of Audits and Investigations or its successor are governed under this chapter of rules. (7-1-06)T

01. Investigation Methods. Under Section 56-227(e), Idaho Code, the Department will investigate and identify potential instances of fraud, abuse, or other misconduct by any person related to involvement in the program. Methods may include: review of computerized reports, referrals to or from other agencies, health care providers or persons, or conducting audits and interviews, probability sampling and extrapolation, and issuing subpoenas to compel testimony or the production of records. Reviews may occur on either pre-payment or post-payment basis. (7-1-06)T

02. Probability Sampling. Probability sampling shall be done in conformance with generally accepted statistical standards and procedures. "Probability sampling" means the standard statistical methodology in which a sample is selected based on the theory of probability, a mathematical theory used to study the occurrence of random events. (7-1-06)T

03. Extrapolation. Whenever the results of a probability sample are used to extrapolate the amount to be recovered, the demand for recovery will be accompanied by a clear description of the universe from which the sample was drawn, the sample size and method used to select the sample, the formulas and calculation procedures used to determine the amount to be recovered, and the confidence level used to calculate the precision of the extrapolated overpayment. "Extrapolation" means the methodology whereby an unknown value can be estimated by projecting the results of a probability sample to the universe from which the sample was drawn with a calculated margin of error. (7-1-06)T

101. DOCUMENTATION OF SERVICES AND ACCESS TO RECORDS.

01. Documentation of Services. Providers must generate documentation at the time of service sufficient to support each claim or service, and as required by rule, statute, or contract. Documentation must be legible and consistent with professionally recognized standards. Documentation must be retained for a period of five (5) years from the date the item or service was provided. Documentation to support claims for services includes, but is not limited to, medical records, treatment plans, medical necessity justification, assessments, appointment sheets, patient accounts, financial records or other records regardless of its form or media. (7-1-06)T

02. Immediate Access to Records. Providers must grant to the Department and its agents, the U.S. Department of Health and Human Services and its agents, immediate access to records for review and copying during normal business hours. These records are defined in Subsection 101.01 of these rules. (7-1-06)T

03. Copying Records. The Department and its authorized agents may copy any record as defined in Subsection 202.01 of these rules. They may request in writing to have copies of records supplied by the provider. The requested copies must be furnished within twenty (20) working days after the date of the written request, unless an extension of time is granted by the Department for good cause. Failure to timely provide requested copies will be a refusal to provide access to records. (7-1-06)T

04. Removal of Records From Provider's Premises. The Department and its authorized agents may remove from the provider's premises copies of any records as defined in Subsection 101.01 of these rules. (7-1-06)T

102. -- 199. (RESERVED).

200. DENIAL OF PAYMENT.
The following are reasons the Department may deny payment. (7-1-06)T

01. Billed Services Not Provided or Not Medically Necessary. The Department may deny payment for any and all claims it determines are for items or services: (7-1-06)T

a. Not provided or not found by the Department to be medically necessary. (7-1-06)T

b. Not documented to be provided or medically necessary. (7-1-06)T

c. Not provided in accordance with professionally recognized standards of health care. (7-1-06)T

d. Provided as a result of a prohibited physician referral under 42 CFR Part 411, Subpart J. (7-1-06)T

02. Contrary to Rules or Provider Agreement. The Department may deny payment when services billed are contrary to Department rules or the provider agreement. (7-1-06)T

03. Failure to Provide Immediate Access to Records. The Department may deny payment when the provider does not allow immediate access to records as defined in Section 101 of these rules. (7-1-06)T

201. -- 204. (RESERVED).

205. RECOUPMENT.
The Department may recoup the amount paid for items or services listed in Section 200 of these rules. If recoupment is impracticable, the Department may pursue any available legal remedies it may have. Interest shall accrue on overpayments at the statutory rate set forth in Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for items or services until the date of recovery. (7-1-06)T

206. -- 209. (RESERVED).

210. SUSPENSION OF PAYMENTS PENDING INVESTIGATION.
The Department may suspend payments in whole or part in a suspected case of fraud or abuse pending investigation and conclusion of legal proceedings related to the provider's alleged fraud or abuse. When payments have been suspended under this section of rule, the Department will provide for a hearing within thirty (30) days of receipt of any timely filed notice of appeal. (7-1-06)T

01. Basis for Suspension of Payments. When the Department through reliable evidence suspects fraud or abuse, or when a provider fails to provide immediate access to records, Medicaid payments may be withheld or suspended. (7-1-06)T

02. Notice of Suspension of Payments. The Department may withhold payments without first notifying the provider of its intention to do so. The Department will send written notice according to 42 CFR 455-23(b) within five (5) days of taking such action. (7-1-06)T

03. Duration of Suspension of Payments. The withholding of payment actions under this section of rule will be temporary and will not continue after: (7-1-06)T

a. The Department or the prosecuting authorities determine there is insufficient evidence of fraud or willful misrepresentation by the provider; or (7-1-06)T

b. Legal proceedings related to the provider's alleged fraud or abuse are completed. (7-1-06)T

211. -- 219. (RESERVED).

220. PROVIDER AGREEMENT SUSPENSION.
In the event the Department identifies a suspected case of fraud or abuse, it may summarily suspend the provider agreement when such action is necessary to prevent or avoid immediate danger to the public health or safety. This provider agreement suspension temporarily bars the provider from participation in the medical assistance program, pending investigation and Department action. The Department will notify the provider of the suspension. The suspension is effective immediately upon written, electronic, or oral notification. When a provider agreement is suspended under this section of rule, the Department will provide for a hearing within thirty (30) days of receipt of any timely filed notice of appeal (7-1-06)T

221. -- 229. (RESERVED).

230. TERMINATION OF PROVIDER STATUS.
Under Section 56-209h, Idaho Code, the Department may terminate the provider agreement of, or otherwise deny provider status for a period of five (5) years from the date the Department's action becomes final to, any individual or entity who: (7-1-06)T

01. Submits an Incorrect Claim. Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item or amount is specifically identified. (7-1-06)T

02. Fraudulent Claim. Submits a fraudulent claim. (7-1-06)T

03. Knowingly Makes a False Statement. Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the Department. (7-1-06)T

04. Medically Unnecessary. Submits a claim for an item or service known to be medically unnecessary. (7-1-06)T

05. Immediate Access to Documentation. Fails to provide, upon written request by the Department, immediate access to documentation required to be maintained. (7-1-06)T

06. Non-Compliance With Rules and Regulations. Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments. (7-1-06)T

07. Violation of Material Term or Condition. Knowingly violates any material term or condition of its provider agreement. (7-1-06)T

08. Failure to Repay. Has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or provider agreement. (7-1-06)T

09. Fraudulent or Abusive Conduct. Has been found, or was a managing employee in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care items or services. (7-1-06)T

10. Failure to Meet Qualifications. Fails to meet the qualifications specifically required by rule or by any applicable licensing board. (7-1-06)T

231. -- 234. (RESERVED).

235. CIVIL MONETARY PENALTIES.
Under Section 56-209h, Idaho Code, the Department may assess civil monetary penalties against a provider, any officer, director, owner, and managing employee for conduct identified in Subsections ~~211~~*230*.01 through ~~211~~*230*.09 of these rules. The amount of penalties may be up to one thousand dollars ($1,000) for each item or service improperly claimed, except that in the case of multiple penalties the Department may reduce the penalties to not less than twenty-five percent (25%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim. These penalties are intended to be remedial, at a minimum recovering costs of investigation and administrative review, and placing the costs associated with non-compliance on the offending provider. ~~*(7-1-06)T*~~(7-1-06)T

236. -- 239. (RESERVED).

240. MANDATORY EXCLUSIONS FROM THE MEDICAID PROGRAM.
The Department will exclude from the Medicaid program any provider, entity or person that: (7-1-06)T

01. Conviction of a Criminal Offense. Has been convicted of a criminal offense related to the delivery of an item or service under a federal or any state health care program, including the performance of management or administrative services relating to the delivery of items or services under any such program. (7-1-06)T

02. Conviction of a Criminal Offense Related to Patient Neglect or Abuse. Has been convicted, under federal or state law, of a criminal offense related to the neglect or abuse of a patient, in connection with the delivery of a health care item or service, including any offense that the Department concludes entailed, or resulted in, neglect or abuse of patients. The conviction need not relate to a patient who is a program beneficiary. (7-1-06)T

03. Other Exclusions. Is identified by the Centers for Medicare and Medicaid Services (CMS) as having been excluded by another state or the Office of Inspector General or any person CMS directs the Department to exclude. (7-1-06)T

241. -- 244. (RESERVED).

245. TERMS OF MANDATORY EXCLUSIONS FROM THE MEDICAID PROGRAM.
Mandatory exclusions from the Medicaid program imposed under Subsections 240.01 and 240.02 of these rules, will be for not less than ten (10) years. The exclusion may exceed ten (10) years if aggravating factors are present. In the case of any mandatory exclusion of any person, if the

individual has been convicted on two (2) or more previous occasions of one (1) or more offenses for which an exclusion may be effected under this section, the period of exclusion will be permanent. (7-1-06)T

246. -- 249. (RESERVED).

250. PERMISSIVE EXCLUSIONS FROM THE MEDICAID PROGRAM.
The Department may exclude any person or entity from the Medicaid program for a period of not less than one (1) year: (7-1-06)T

01. Endangerment of Health or Safety of a Patient. Where there has been a finding by a governmental agency against such person or entity of endangering the health or safety of a patient, or of patient abuse, neglect or exploitation. (7-1-06)T

02. Failure to Disclose or Make Available Records. That has failed or refused to disclose, make available, or provide immediate access to the Department, or its authorized agent, or any licensing board, any records maintained by the provider or required of the provider to be maintained, which the Department deems relevant to determining the appropriateness of payment. (7-1-06)T

03. Other Exclusions. For any reason for which the Secretary of Health and Human Services, or his designee, could exclude an individual or entity. (7-1-06)T

251. -- 259. (RESERVED).

260. AGGRAVATING FACTORS.
For purposes of lengthening the period of mandatory exclusions and permissive exclusions from the Medicaid program, the following factors may be considered. This is not intended to be an exhaustive list of factors which may be considered: (7-1-06)T

01. Financial Loss. The acts resulted in financial loss to the program of one thousand five hundred dollars ($1,500) or more. The entire amount of financial loss to such program will be considered, including any amounts resulting from similar acts not adjudicated, regardless of whether full or partial restitution has been made to the program. (7-1-06)T

02. Time Acts Were Committed. The acts were committed over a period of one (1) year or more. (7-1-06)T

03. Adverse Impact. The acts had a significant adverse physical, mental or financial impact on one (1) or more program ~~*recipients*~~ *participants* or other individuals. ~~*(7-1-06)T*~~(7-1-06)T

04. Length of Sentence. The length of any sentence imposed by the court related to the same act. (7-1-06)T

05. Prior Record. The excluded person has a prior criminal, civil or administrative sanction record. (7-1-06)T

261. -- 264. (RESERVED).

265. REFUSAL TO ENTER INTO AN AGREEMENT.
The Department may refuse to enter into a provider agreement for the reasons described in Subsections 265.01 through 265.05 of this rule. (7-1-06)T

01. Convicted of a Felony. *The provider* has been convicted of a felony under federal or state law~~;~~. ~~*or*~~ ~~*(7-1-06)T*~~(7-1-06)T

02. Committed an Offense or Act Not in Best Interest of Medicaid ~~*Recipients*~~ *Participants*. *The provider* has committed an offense or act which the Department determines is inconsistent with the best interests of Medicaid ~~*recipients; or*~~ *participants.* ~~*(7-1-06)T*~~(7-1-06)T

03. Failed to Repay. *The provider* has failed to repay the Department monies which had been previously determined to have been owed to the Department~~;~~. ~~*or*~~ ~~*(7-1-06)T*~~(7-1-06)T

04. Investigation Pending. *The provider* has a pending investigation for program fraud or abuse~~;~~. ~~*or*~~ ~~*(7-1-06)T*~~(7-1-06)T

05. Terminated Provider Agreement. *The provider* was the managing employee, officer, or owner of an entity whose provider agreement was terminated under Section 230 of these rules. ~~*(7-1-06)T*~~(7-1-06)T

266. -- 269. (RESERVED).

270. MISCELLANEOUS CORRECTIVE ACTIONS.
The Department may take lesser action to investigate, monitor and correct suspected instances of fraud, abuse, over utilization, and other misconduct as provided in Subsections 270.01 through 270.03 of this rule. (7-1-06)T

01. Issuance of a Warning. Issuance of a warning letter describing the nature of suspected violations, and requesting an explanation of the problem and a warning that additional action may be taken if the action is not justified or discontinued. (7-1-06)T

02. Review. Prepayment review of all or selected claims submitted by the provider with notice that claims failing to meet written guidelines will be denied. (7-1-06)T

03. Referral. Referral to state licensing boards for review of quality of care and professional and ethical conduct. (7-1-06)T

271. -- 274. (RESERVED).

275. DISCLOSURE OF CERTAIN PERSONS.
Prior to entering into or renewing a provider agreement, or at any time upon written request by the Department, a provider must disclose to the Department the identity of any person described at 42 CFR 1001.1001. The Department may refuse to enter into or renew an agreement with any provider associated with any person so described. The Department may also refuse to enter into, or terminate, a provider agreement if it determines that the provider did not fully and accurately

make any disclosure required under this chapter of rule. (7-1-06)T

276. -- 279. (RESERVED).

280. PROVIDER NOTIFICATION.
When the Department determines actions defined in Sections ~~205~~ 200 through ~~217~~ 250 of these rules are appropriate, it will send written notice of the decision to the provider or person. The notice will state the basis for the action, the length of the action, the effect of the action on that person's ability to provide services under state and federal programs, and the person's appeal rights. ~~(7-1-06)T~~(7-1-06)T

281. -- 284. (RESERVED).

285. NOTICE TO STATE LICENSING AUTHORITIES.
The Department will promptly notify all appropriate licensing authorities having responsibility for licensing or certification of a Department action, and the facts and circumstances of that action. The Department may request certain action be taken and that the Department be informed of actions taken. (7-1-06)T

286. -- 289. (RESERVED).

290. PUBLIC NOTICE.
The Department will give notice of the action taken and the effective date to the public, appropriate beneficiaries, and may give notice as appropriate to related providers, the Quality Improvement Organization (QIO), institutional providers, professional organizations, contractors, other health insurance payors, and other agencies or Departmental divisions. (7-1-06)T

291. -- 299. (RESERVED).

300. DEPARTMENT OF HEALTH AND HUMAN SERVICES.
The Department will notify the Office of Inspector General within fifteen (15) days after a final action in which a person has been excluded or convicted of a criminal offense related to participation in the delivery of health care items or services under the program. (7-1-06)T

301. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code; and Title 56, Chapter 8, Idaho Code - regarding "Hard-to-Place Children."

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 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 259 through 287.

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 changes to the out-of-state placement rules will result in savings in travel expenses of approximately $50,000 per year, for workers to visit children placed out of state. To estimate the impact to the state general fund for adoption and guardianship assistance rule changes, it was determined that there are five children who would be impacted in the 2005-2006 State Fiscal Year who would not qualify under this rule change. The total annual general fund expenditures for these children is approximately $15,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 3rd day of November, 2006.

THIS 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: 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-

7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, 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, October 18, 2006.

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:

Several areas in the rules governing family and children's services have been amended and clarified to provide improved safety, permanency, and well-being for children in foster care, children being adopted, and their families.

Rules are being amended to:

1. Achieve consistency with statute on guardianship assistance;
2. Reflect "best practice" in the child protection rules and the adoption rules for out-of-state adoptions, home studies, support, supervision, and limits on state-funded adoption and guardianship assistance; and
3. Revise the foster care rules to modify the requirements in "Professional Foster Care" and delete references to discontinued community programs.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year.

The changes to the out-of-state placement rules will result in savings in travel expenses of approximately $50,000 per year, for workers to visit children placed out of state.

To estimate the impact to the state general fund for adoption and guardianship assistance rule changes, it was determined that there are five (5) children who would be impacted in the 2005-2006 State Fiscal Year who would not qualify under this rule change. The total annual general fund expenditures for these children is approximately $15,000 per year.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are being made to be consistent with the Title 56, Chapter 8, Idaho Code, regarding "Hard to Place Children" and to reflect "best practice."

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Morris at (208) 334-5706.

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 Wednesday, October 25, 2006.

DATED this 16th day of August, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, ~~*and*~~ 56-1004, and 56-1004A, Idaho Code. ~~*(4-11-06)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

005. ~~*MANDATORY CRIMINAL HISTORY CHECKS*~~ (RESERVED).
~~*The following persons shall participate in a criminal history check in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks": All current Department employees, applicants, transfers, reinstated former employees, student interns, promotes, contract employees, qualified individuals, volunteers, and others assigned to programs that involve direct contact with children. Programs within the Department that involve direct contact with children include, but are not limited to, the following: State Hospital South, Adolescent Program; all regionally operated day treatment programming staffed by personnel of the Family and Children's Services Programs and/or Mental Health Programs and Child Development Center Programs and others; and all other programs that include provision of services to children as an alternative to parental care for all or any portion of the day. "Others assigned" specifically refers to employees of the Department of Education or local school districts assigned to regional day treatment programming or institutional settings.*~~ ~~*(3-18-99)*~~

(BREAK IN CONTINUITY OF SECTIONS)

008. ~~009.~~ (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History and Background Check. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." ( )

02. Availability to Work or Provide Service. Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. ( )

03. Adoption. An individual applying to the Department to be an adoptive parent or petitioning the court for the adoption of a child must comply with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." ( )

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.
For the purposes of these rules ~~*contained*~~, ~~*in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services,"*~~ the following terms ~~*and abbreviations*~~ are used as defined in ~~*Sections 010 through 013 of*~~ Section 010: ~~*(4-6-05)*~~( )

01. IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (3-18-99)

02. Adoption Assistance. Funds provided to adoptive parent(s) of children who have special needs ~~*and/*~~or who could not be adopted without financial or medical assistance. ~~*(5-3-03)*~~( )

03. Adoption Services. Protective services through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. ~~*(5-3-03)*~~( )

04. Alternate Care. Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (3-30-01)

05. Alternate Care Plan. A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (5-3-03)

06. Area of Concern. Circumstances that brought a child and family to the attention of the Department. These circumstances typically involve safety issues that put the child at risk of harm. (____)

0~~6~~7. Assessment. The first step in the planning process, ~~*which results in*~~ the outcome of which is the systematic documentation of the family's ~~*issues*~~ areas of concern, their strengths, and desired outcomes. ~~*(3-30-01)*~~(____)

0~~7~~8. Board. The Idaho State Board of Health and Welfare. (3-18-99)

0~~8~~9. Case Management. A change-oriented service to families that assures and coordinates the provision of family risk assessment, family case planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. ~~*(3-18-99)*~~(____)

~~***09. Case Plan**. See "Family Plan". (3-18-99)*~~

~~***10. Central Office**. The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (3-18-99)*~~

1~~1~~0. Certified Adoption Professional (formerly "qualified individual"). An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (3-20-04)

1~~2~~1. Child Mental Health. All of the following children under eighteen (18) years of age ~~*shall*~~ must be served without regard to income or type of health insurance: ~~*(3-30-01)*~~(____)

a. Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)

b. Present a significant risk of harm to themselves or to others, due to their mental illness; and (3-30-01)

c. Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)

d. Are involuntarily committed to the Department for out-of-home placement. (3-30-01)

1~~3~~2. Child Mental Health Services. Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (3-30-01)

1~~4~~3. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter ~~*shall*~~ must be served without regard to income. ~~*(3-30-01)*~~(____)

1~~5~~4. Child Protective Services. Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (3-18-99)

1~~6~~5. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-2101 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-20-04)

~~***17. Concurrent Planning**. Planning which addresses a child's need for a permanent family by working toward family reunification while, at the same time, developing an alternative plan that will provide permanency for the child through adoption, guardianship, placement with a relative or other permanent placement. (3-30-01)*~~

~~***18. DHW Regions**. Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (3-18-99)*~~

1~~9~~6. Day Care for Children. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)

~~20~~17. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (3-18-99)

~~21~~18. Department. The Idaho Department of Health and Welfare. (3-18-99)

~~22~~19. Deprivation. One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the

principal wage earner parent. ~~(4-6-05)~~(____)

20. **Desired Result**. Behaviorally-specific description of how the family circumstances will look when the risk factors that brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (____)

2~~3~~1. **Director**. The Director of the Idaho Department of Health and Welfare or his designee. ~~(3-18-99)~~(____)

2~~4~~2. **Extended Family Member of an Indian Child**. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.
For the purposes of these rules, the following terms are used as defined in Section 011: (____)

01. **Family**. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (5-3-03)

02. **Family and Children's Services** ~~***(FACS)***~~. Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. ~~(3-18-99)~~(____)

03. **Family Assessment**. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and~~/or~~ safety ~~*issues that threaten*~~ threats to family integrity, unity, or the ability to care for their members. ~~(3-18-99)~~(____)

04. **Family Case Record**. Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)

~~***05.*** ***Family-Centered Services****. An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the safety, well being and permanency of children.*~~ ~~(3-30-01)~~

0~~6~~5. **Family (Case) Plan**. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders ~~*and/*~~or leaders should be consulted early in the plan development. ~~(3-30-01)~~(____)

0~~7~~6. **Family Services Worker**. Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and

Children's Services Programs. (3-20-04)

0~~8~~7. **Field Office**. A Department of Health and Welfare service delivery site. (3-18-99)

08. **FOCUS (Family Oriented Community User System)**. This is the Department's computer information system used by Family and Children's Services personnel to maintain federally-required child welfare information. FOCUS provides a case management system for Child Protection, Adoptions, Children's Mental Health, Interstate Compact, and Independent Living for the Department. ( )

09. **Goal**. A statement of the long term outcome or plan for the child and family. (3-18-99)

10. **Guardianship Assistance**. State benefits provided to legal guardian(s) for the support of a child for whom efforts to place for adoption have been unsuccessful and who would otherwise remain in the guardianship of the Department of Health and Welfare. For a child to come into the Department's guardianship, parental rights must have been terminated. ~~(5-3-03)~~( )

11. **Immediate Safety Assessment**. Standardized protocol for contact between a family services worker and a family to objectively determine if safety threats, risks, or immediate service needs exist that require further Family and Children's Services response. ( )

1~~1~~2. **Independent Living**. Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)

1~~2~~3. **Indian**. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)

1~~3~~4. **Indian Child**. Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)

a. A member of an Indian tribe, or (3-18-99)

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)

1~~4~~5. **Indian Child Welfare Act (ICWA)**. The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)

1~~5~~6. **Indian Child's Tribe**. (3-18-99)

a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant

contacts. (3-18-99)

1~~6~~7. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)

~~***17. Information and Referral Services**. A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-01)~~

18. Intercountry Adoption Act of 2000 (P.L. 106-279). Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (5-3-03)

19. Interethnic Adoption Provisions of 1996 (IEPA). IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (5-3-03)

20. Interstate Compact on the Placement of Children (ICPC). Interstate Compact on the Placement of Children (ICPC) in Chapter 21, Title 16, Idaho Code, ensures that the jurisdictional, administrative and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)

~~***21. Issue**. Circumstances which brought a child and family to the attention of the Department. These circumstances typically involve safety issues which put the child at risk of harm. (3-30-01)~~

2~~2~~1. Kin. Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

~~***23. Kinship Care**. Alternative care that is provided by kin. (3-30-01)~~

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.
For the purposes of these rules, the following terms are used as defined in Section 012: ( )

01. Legal Guardianship. A judicially created relationship, including one made by a tribal court, between a child and a relative or non-relative caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian" means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may

only take place when there has been a termination of parental rights. (5-3-03)

02. **Licensed**. Facilities or programs ~~being~~ are licensed in accordance with the provisions of ~~Idaho Department of Health and Welfare Rules~~ IDAPA 16.06.02, "Rules ~~and~~ Governing Standards for Child Care Licensing." ~~(3-18-99)~~(____)

03. **Licensing**. See ~~Idaho Department of Health and Welfare Rules~~ IDAPA 16.06.02, "Rules ~~and~~ Governing Standards for Child Care Licensing," Section 100. ~~(3-18-99)~~(____)

04. **Medicaid**. See "Title XIX." (3-30-01)

05. **Multiethnic Placement Act of 1994 (MEPA)**. MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)

~~**06.** **Objective**. Behaviorally specific description of how the family circumstances will look when the risk factors which brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-01)~~

0~~7~~6. **Parent(s)**. The person(s) who, by birth or through adoption, is considered legally responsible for a child. For purposes of these rules, when it is necessary to be more specific, identifiers will be added to parent(s): birth parent(s), foster parent(s), adoptive parent(s), step-parent(s), and pre-adoptive parent(s). The term "legal guardian(s)" is not included in the definition of parent(s). (3-20-04)

0~~8~~7. **Permanency Planning**. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

0~~9~~8. **Personal Care Services (PCS)**. Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

1~~0~~9. **P.L. 96-272**. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-30-01)

1~~1~~0. **P.L. 105-89**. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997", amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)

1~~2~~1. **Planning**. An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)

~~**13.** **Prevention**. Programs, services and activities aimed at preventing child abuse and neglect and severe emotional disturbance. (3-30-01)~~

~~**14.** **Protective Services**. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (3-18-99)~~

1~~5~~2. Purchase of Services. Provision of services to children and families by local agencies or individuals who contract with DHW. (3-30-01)

1~~6~~3. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (3-18-99)

d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (3-18-99)

1~~7~~4. Relative. Person related to a child by blood, marriage, or adoption. (3-30-01)

1~~8~~5. Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)

1~~9~~6. Respite Care. Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)

~~***20. Risk Assessment**. Standardized protocol for contact between a family services worker and a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (3-30-01)~~

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms are used as defined in Section 013: ( )

01. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

02. Safety Plan. Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe.(3-30-01)

03. Serious Emotional Disturbance (SED). An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder ~~*shall be*~~ is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment ~~*shall be*~~ is assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment ~~*shall*~~ requires a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: Self-harmful behavior; Moods/ emotions; or thinking. A substance abuse disorder, ~~*or*~~ conduct disorder, ~~*and/*~~or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. ~~*(3-20-04)*~~(____)

04. Social Service Block Grant. The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (3-18-99)

05. TAFI. Temporary Assistance to Families in Idaho. (3-18-99)

06. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

07. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-20-04)

08. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (3-18-99)

09. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

10. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

11. Unmarried Parents' Services. Unmarried parent(s) services are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for all unmarried parent(s) who need such service in relation to their plans for their children and arranging for and~~*/or*~~ paying for prenatal and confinement care for the well-being of the parent and infant. ~~*(5-3-03)*~~(____)

12. Voluntary Services Agreement. A written and executed agreement between the Department and parent(s) or legal guardian(s) regarding the goal, ~~issues~~ areas of concern, ~~objectives~~ desired results, and task responsibility, including payment. A children's mental health family services plan is the Voluntary Service Agreement. ~~(5-3-03)~~(____)

014. -- 019. (RESERVED).

020. GENERAL REQUIREMENTS APPLICABLE TO ALL FAMILY AND CHILDREN'S SERVICES PROGRAMS.

01. Information, Referral and Screening. All residents of the state of Idaho, regardless of the duration of their residency or their income ~~shall be~~ are entitled to receive, upon referral or request: ~~(3-30-01)~~(____)

a. Accurate and current information about services to children and families provided through the Department. (3-18-99)

b. Referral to other appropriate public or private services available in the community; and (3-18-99)

c. A screening to determine service needs and safety ~~issues~~ threats that can be addressed through Family and Children's Services. ~~(3-18-99)~~(____)

02. Initiating Family and Children's Services. Family and children's services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written voluntary request for services. Efforts ~~shall~~ will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. ~~(3-18-99)~~(____)

03. Individual Authorized to Request Voluntary Services. Requests for voluntary services ~~shall~~ must be made by a family member or by an authorized representative, or by someone acting on behalf of an incompetent or incapacitated person. ~~(3-18-99)~~(____)

04. Record of Request for Services. The date of referral or request for services ~~shall~~ will be documented in the records of the field office. ~~(3-18-99)~~(____)

05. Information to Be Provided to Family. Upon referral or application for services, the family services worker ~~shall~~ must inform the family that: (3-18-99)

a. They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; (3-18-99)

b. Fees may be charged for certain services, and that the parent(s) or legal guardian(s) has financial responsibility for the child in care; (5-3-03)

c. They have the right to pursue an administrative appeal of any decision of Family and Children's Services relating to them, including but not limited to any decision not to provide

services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court-ordered or court-authorized. (3-18-99)

021. -- 029. (RESERVED).

030. CORE FAMILY AND CHILDREN'S SERVICES.
The following core services are the state and federally mandated services provided by or through regional Family and Children's Services offices: (3-30-01)

01. Crisis Services. Crisis Services are an immediate response to assure safety when a child is believed to be in imminent danger as a result of child abuse or neglect or to be in imminent danger of causing life-threatening harm to self or someone else due to a serious emotional disturbance. Crisis services require immediate access to services, twenty-four (24) hours per day, seven (7) days per week to assess risk and place in alternate care, if necessary, to assure safety for the child. (3-30-01)

02. Service Management. Also referred to as case management. The goals of service management are to assure and coordinate family assessment, service planning, treatment and other services, protection of children, planning for permanency, advocacy, review and reassessment, documentation and timely closure of cases. (3-30-01)

03. Screening Services. Initial contact with families and children to gather information to determine whether or not the child meets eligibility criteria to receive services as a member of the target population for Child Protection, Adoptions, and/or Children's Mental Health Services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (3-30-01)

04. Assessment and Safety/Service Planning Services. Process in which the safety ~~*issues*~~ threats the family's concerns, strengths, and resources are identified. Based on this assessment, a written plan is developed together by the worker, the family and other interested parties. Each plan will identify a long-term goal, behaviorally specific and measurable ~~*objectives*~~ desired results, specific tasks which identify who, how, and when the tasks will be completed. ~~*(3-30-01)*~~(____)

05. Preventative Services. Community-based services which support children and families and are designed to reduce the risk of child abuse and neglect as well as serious emotional disturbance. These services can involve direct services, but are primarily implemented through community education, and partnerships with other community agencies such as schools and courts. (3-30-01)

06. Court Ordered Services. These services primarily involve court-ordered investigations/assessments of situations where children are believed to be at risk due to child abuse or neglect or a harm to themselves or others due to the presence of a severe emotional disturbance. (3-30-01)

07. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse or neglect or children and

youth with a severe emotional disturbance. These out of home placements are arranged for and financed in full or in part by the Department. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment ~~shall~~ will be made on behalf of a child placed in the licensed home of an individual or relative, a public or private child care institution, a home licensed, approved or specified by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. ~~(3-30-01)~~( )

08. Community Treatment Services. Services provided to a child and family in a community-based setting which are designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include, but are not limited to: respite care; family preservation; psychosocial rehabilitative services, companion services and day treatment. (3-30-01)

09. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho ~~shall~~ will be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement ~~shall~~ will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101 et seq., Idaho Code, the "Interstate Compact on the Placement of Children" and Section 66-1201 et seq., Idaho Code, the "Interstate Compact on Mental Health." Placements ~~shall~~ must be in compliance with all state and federal laws. ~~(3-30-01)~~( )

10. Independent Living. The assessment, planning, and provision of services to eligible youth to promote self-reliance and successful transition to adulthood. Eligibility requirements for Independent Living services include: youth must be between fifteen (15) and twenty-one (21) years of age; youth's care must be the responsibility of the Department or tribal agency as established by a court order or voluntary agreement with the youth's family; and placed in foster care or similar setting for ninety (90) consecutive days. Once established, a youth's eligibility is maintained up to their twenty-first birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or are in foster care. (3-30-01)

11. Adoption Services. Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of all parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services also seeks to build the community's capacity to deliver adoptive services. (3-30-01)

12. Administrative Services. Regulatory activities and services which assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. These services include but are not limited to: (3-30-01)

a. Child care licensing; (3-30-01)

b. Day care licensing; (3-30-01)

c. Community development; (3-30-01)

d. Contract development and monitoring; and (3-30-01)

e. Pre-authorization of care. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.
The federal and state laws which are the basis for these rules include a number of mandatory protections and safeguards which are intended to assure timely permanency for children and to protect the rights of children, their families and their tribes. (3-30-01)

01. Reasonable Efforts. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, to finalize a permanent plan, or prevent a seriously emotionally disturbed child from having to move to a more restrictive setting. Efforts must be made as follows and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable: (5-3-03)

a. Efforts to prevent or eliminate the need for a child to be removed from his home; and (5-3-03)

b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (5-3-03)

c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (5-3-03)

02. Active Efforts. For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. (5-3-03)

03. ICWA Preferences. If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences. (3-18-99)

04. Least Restrictive Setting. Efforts ~~*shall*~~ will be made to assure that any child in the Department's care, especially those children in care due to an emotional or behavioral disturbance, reside in the least restrictive, most family-like setting possible. Placement ~~*shall*~~ will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. For an Indian child, placement in

the least restrictive setting is that setting which most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child. ~~(5-3-03)~~(____)

05. Legal Requirements for Indian Children. In the case of an Indian child, notice of the pending proceeding ~~*shall*~~ must be sent by Certified Mail, Return Receipt Requested to the parent(s) or Indian custodian(s) and the Indian child's tribe, including notice of their right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement. ~~(5-3-03)~~(____)

06. Visitation for Child's Parent(s) or Legal Guardian(s). Visitation arrangements ~~*shall*~~ must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. ~~(5-3-03)~~(____)

07. Notification of Change in Placement. Written notification to the child's parent(s) or legal guardian(s) within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent(s) or Indian custodian(s) of an Indian child, and the Indian child's tribe, which includes the information described in Section 051 of these rules entitled Notice Required for ICWA. (5-3-03)

08. Notification of Change in Visitation. Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (5-3-03)

09. Notification of Right to Participate and Appeal. Written notification to the child's parent(s) or legal guardian(s) ~~*shall*~~ must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. ~~(5-3-03)~~(____)

10. ICWA Placement Preferences. Compliance with the foster care placement preferences of the Indian Child Welfare Act. (3-18-99)

11. Compliance with Requirements of the Multiethnic Placement Act and Interethnic Adoption Provisions. (3-30-01)

12. Family Decision Making and Plan Development. (3-30-01)

a. A family plan ~~*shall*~~ will be completed within thirty (30) days of the date the case was opened. ~~(3-30-01)~~(____)

b. Families ~~*shall*~~ will be given ample opportunity to participate in the identification of ~~*issues*~~ areas of concern, their strengths and developing service ~~*objectives*~~ goals and tasks. The family plan and any changes to it ~~*shall*~~ must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal ~~*shall*~~ will be documented on the plan. ~~(3-30-01)~~(____)

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-30-01)

13. Compelling Reasons. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (5-3-03)

14. ASFA Placement Preferences. The following placement preferences will be used when recommending and making permanency decisions: (3-30-01)

a. Return home if safe to do so; (3-30-01)

b. Adoption or legal guardianship by a relative; (3-30-01)

c. Adoption or legal guardianship by kin; (3-30-01)

d. Adoption or legal guardianship by non-relative; (3-30-01)

e. Other planned permanent placement such as long-term foster care. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

240. SIX MONTH REVIEWS CONDUCTED BY THE DEPARTMENT.
Unless a judicial review occurs at the end of a six (6) month period in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is the child's guardian, the Department ~~*shall*~~ will conduct an individual family case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. ~~*(5-3-03)*~~(____)

01. Notice of Six Month Review. The parent(s) or legal guardian(s), foster parents of a child and any preadoptive parent(s) or relative(s) providing care for the child and an Indian child's tribe, if appropriate, are to be provided with notice of and an opportunity to be heard in the six (6) month review. This ~~*shall*~~ must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party solely to the review on the basis of such notice and opportunity to be heard. Participants have the right to be represented by the individual of their choice. ~~*(5-3-03)*~~(____)

02. Procedure in the Six Month Review. The parties ~~*shall*~~ will be given the opportunity for face-to-face discussion including attending, asking questions and making statements. ~~*(3-30-01)*~~(____)

03. Members of Six Month Review Panel. The review team ~~*shall*~~ must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes and citizens qualified by experience, professional background or training. Members of the panel ~~*shall*~~ will be chosen by the regional director and receive instructions from the Family and Children's Services Program Manager or ~~*their*~~ his designee to enable them to understand the review process and their roles as participants. ~~*(5-3-03)*~~(____)

04. ~~*Issues Considered*~~ Considerations in Six Month Review. Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, at least each of the following must be addressed: ~~*(5-3-03)*~~(____)

a. Determine the extent of compliance with the family services plan; (5-3-03)

b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-3-03)

c. Review compliance with the Indian Child Welfare Act, when applicable; (5-3-03)

d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-3-03)

e. Project a likely date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship or other permanent placement. (5-3-03)

05. Recommendations and Conclusions of Six Month Review Panel. Following the review, written conclusions and recommendations ~~*shall*~~ will be provided to all participants, subject to Department safeguards for confidentiality. The decision ~~*shall*~~ must also provide appeal rights. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

400. AUTHORITY FOR ALTERNATE CARE SERVICES.
Upon approval of the Regional Family and Children's Services Program Manager or his designee, the Department may provide or purchase alternative care under the following conditions: ~~*(5-3-03)*~~(____)

01. Department Custody. When the child is in the legal custody or guardianship of the Department; or (3-18-99)

02. Voluntary Placement. Upon agreement with the parent(s) or legal guardian(s)

when circumstances interfere with their provision of proper care or they are no longer able to maintain a child with serious emotional disturbance in their home and they can benefit from social work and treatment services. A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify ~~issues~~ areas of concern, goals, ~~objectives~~ desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. A voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s). A contract between the Department and the service provider, if applicable, must also be in effect. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best interests of the child to continue his current placement, cannot be reimbursed by Title IV-E funds. ~~(5-3-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

405. ALTERNATE CARE CASE MANAGEMENT.
Case management ~~shall~~ must continue while the child is in alternate care and ~~shall~~ must ensure the following: ~~(3-18-99)~~(____)

01. Preparation for Placement. Preparing a child for placement in alternate care ~~shall be~~ is the joint responsibility of the child's family, the child (when appropriate), the family services worker and the alternate care provider. ~~(3-18-99)~~(____)

02. Information for Alternate Care Provider. The Department and the family ~~shall~~ must inform the alternate care provider of their roles and responsibilities in meeting the needs of the child including: ~~(3-30-01)~~(____)

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems and any other pertinent health information concerning the child; (3-18-99)

b. The name of the child's doctor; (3-18-99)

c. The child's current functioning and behaviors; (3-18-99)

d. The child's history and past experiences and reasons for placement into alternate care; (3-30-01)

e. The child's cultural and racial identity; (3-18-99)

f. Any educational, developmental, or special needs of the child; (3-18-99)

g. The child's interest and talents; (3-18-99)

h. The child's attachment to current caretakers; (3-18-99)

i. The individualized and unique needs of the child; (3-18-99)

j. Procedures to follow in case of emergency; and (3-18-99)

k. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)

03. Consent for Medical Care. Parent(s) or legal guardian(s) ~~*shall*~~ must sign a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent ~~*shall*~~ must be documented in the family case record. ~~*(5-3-03)*~~(____)

04. Financial Arrangements. The family services worker ~~*shall*~~ must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. ~~*(3-18-99)*~~(____)

05. Contact with Child. The family, the family services worker, the alternate care provider and the child, if of appropriate developmental age, ~~*shall*~~ must establish a schedule for frequent and regular visits to the child by the family and by the family services worker or designee. ~~*(3-18-99)*~~(____)

a. Face-to-face contact in the alternate care setting with the child by the family services worker must occur at least monthly or more frequently depending on the needs of the child ~~*and/*~~or the provider, or both, and the stability of the placement. ~~*(3-30-01)*~~(____)

b. The Department ~~*shall*~~ will have strategies in place to detect abuse or neglect of children in alternate care. ~~*(3-18-99)*~~(____)

c. Regular contact with children placed in intensive treatment facilities, in or out-of-state, ~~*shall*~~ must occur at a minimum of once every ninety (90) days. ~~*(3-30-01)*~~(____)

d. Frequent and regular contact between the child and parents and other family members ~~*shall*~~ will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. ~~*(3-18-99)*~~(____)

e. When a child is placed in foster care ~~*at a substantial distance from home or out-of-state, a face-to-face visit with the child in the child's placement by the worker is required at least once every twelve (12) months*~~ in another state, a Department family services worker must maintain at least monthly contact with the child and family with whom he has been placed as long as the state of Idaho has custody of the child. The supervising agency in the state where the child is living is required to maintain monthly, face-to-face contact with the child and the family and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. ~~*(5-3-03)*~~(____)

06. Discharge Planning. Planning for discharge from alternate care into family services that follow alternate care ~~*shall*~~ will be developed with all concerned parties. Discharge planning ~~*shall*~~ will be initiated at the time of placement and completed prior to the child's return home or to the community. ~~*(3-18-99)*~~(____)

07. Transition Planning. Planning for discharge from alternate care into a permanent placement ~~*shall*~~ will be developed with all concerned parties. Discharge planning ~~*shall*~~ will be initiated at the time of placement and completed prior to the child's return home or to the community. ~~*(3-18-99)*~~(____)

08. Financial and Support Services. As part of the discharge planning, Departmental resources ~~*shall*~~ will be coordinated to expedite access to Department financial and medical assistance and community support services. ~~*(3-18-99)*~~(____)

406. -- 4~~*19*~~21. (RESERVED).

~~***420. OTHER SOURCES OF ALTERNATE CARE -- CASEY FAMILY PROGRAM, BOISE DIVISION.***~~
~~*Children may be referred to the Casey Family Program, Boise Division for placement when it is determined that reunification of the family is not anticipated to be possible. Once the child has been accepted into the Casey Family Program, Boise Division, the Program will provide direct case management services pursuant to a contract with the Division of Family and Community Services with final responsibility for decision-making continuing to rest with the Department. Children placed with the Casey Family Program shall continue to be eligible for all Department programs, and regional and Casey Family staff shall combine resources to the extent possible to serve these children in the most effective manner.*~~ ~~*(3-20-04)*~~

~~***421. OTHER SOURCES OF ALTERNATE CARE -- PLACEMENT OF UNWED MOTHERS AT BOOTH MEMORIAL HOME.***~~
~~*Referrals may be made to Booth Memorial Home for both outpatient and residential services for unwed pregnant women under the age of twenty-one (21), whose determined needs for outpatient or alternate care placement cannot be met by less restrictive means.*~~ ~~*(3-30-01)*~~

~~***01. Referral Criteria**. For referral to this program, the mother shall:*~~ ~~*(3-30-01)*~~

~~*a. Be unmarried;*~~ ~~*(3-18-99)*~~

~~*b. Have a high-risk pregnancy;*~~ ~~*(3-18-99)*~~

~~*c. Be under the age of eighteen (18) at the time of referral for residential services, and up to the age of twenty-one (21) for outpatient referrals, who are enrolled in the educational component of the program;*~~ ~~*(3-30-01)*~~

~~*d. Be a resident of the state of Idaho;*~~ ~~*(3-18-99)*~~

~~*e. Lack other community resources that would meet her needs in the most home-like environment; and*~~

~~(3-18-99)~~

~~f. Be willing to enroll in the educational program provided by Booth if the mother has not completed high school or a GED. (3-18-99)~~

~~02. Exclusions from Referral. Individuals not appropriate for referral to Booth include: (3-18-99)~~

~~a. Those who are a danger to self or others; (3-18-99)~~

~~b. Those who could be better served by other levels of care, such as foster care or local board and room care; or (3-18-99)~~

~~c. Those whose problems are of such levels that they need the structure of an institutional placement. (3-18-99)~~

(BREAK IN CONTINUITY OF SECTIONS)

428. CUSTODY AND PLACEMENT.
The child's placement and care are the Department's responsibility. The child must live in a licensed foster home, licensed institution, licensed group home, or in a licensed relative's home. (3-30-01)

01. Interstate Placements. In interstate placements, a child may be placed with an approved unlicensed relative when delaying the placement would be harmful to the child's well-being. In those cases, a subsequent request for foster care licensure will be made through the Interstate Compact on the Placement of Children. ( )

02. Intrastate Placements That Become Interstate Placements. If a foster care placement that was initially intrastate becomes an interstate placement because the family with whom the child is placed relocates to another state, a request for foster care licensure will be made through the Interstate Compact on the Placement of Children immediately upon the decision to move the child. If the state to which the family has moved accepts the family's Idaho foster care license as effective, the placement is considered licensed until a determination is made that the family is in compliance with the licensing and other applicable laws of the state to which the family has moved. ( )

(BREAK IN CONTINUITY OF SECTIONS)

445. DENTAL CARE.
~~Every~~ Each child age ~~two~~ three (~~2~~3) who is placed in alternate care ~~shall~~ must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter

according to a schedule prescribed by the dentist. ~~(3-18-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

451. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.
No ~~d~~Department~~al~~ employee or foster parent~~(s) shall~~ is allowed to sign for any foster child's driver's license or permit without written authorization from the ~~Regional Director~~ Family and Children's Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the ~~Regional Director's~~ approval of the Family and Children's Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. ~~(5-3-03)~~(____)

01. Payment by Department. The Department may make payments for driver's training, licenses and permits for children in the Department's guardianship when obtaining a driver's license is part of an older teen's Independent Living Plan. (3-30-01)

02. Payment by Parent(s) or Legal Guardian(s). The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (5-3-03)

452. -- 479. (RESERVED).

480. ALTERNATE CARE LICENSURE.
All private homes and facilities providing care for children ~~pursuant to~~ under these rules ~~shall~~ must be licensed in accordance with ~~Idaho Department of Health and Welfare Rules,~~ IDAPA 16.06.02, "Rules ~~and~~ Governing Standards for Child Care Licensing," unless foster care placement of an Indian child is made ~~by the court~~ with a foster home licensed, approved or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

485. PROFESSIONAL FOSTER CARE.
Placement in professional foster care for children who require professional care for clinically diagnosed emotional, behavioral, ~~and/~~or physical problems ~~shall~~ must be based upon the documented needs of each child, including the inability of less restrictive settings to meet the child's needs and a determination that the child would require a more restrictive setting if professional foster care were not available. ~~(3-18-99)~~(____)

01. Qualifications. At least one (1) parent ~~shall~~ must possess ~~a master's or higher~~

~~degree in a human service field or~~ a bachelor's degree ~~with~~ or three (3) years of experience in a human service delivery setting or be otherwise licensed or certified to provide specialized social and medical care to children, and neither parent ~~shall~~ can be a Department employee. ~~(3-18-99)~~(____)

02. Payment. Payment ~~shall~~ will be made through a professional services contract with the Department for a basic rate and cost for social services total of one thousand dollars ($1,000) per month per child. ~~(3-18-99)~~(____)

03. Treatment Plan. The professional foster parent(s) ~~shall~~ must implement a treatment plan, developed in conjunction with the child's family services worker, for each child in their care. ~~(5-3-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

554. RESPONSE PRIORITIES.
The Department ~~shall~~ must use the following statewide standards for responding to allegations of abuse, neglect, or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards ~~shall~~ must be documented in the family's case file with a description of action taken, ~~which shall~~ and must be reviewed and signed by the ~~Child Protective~~ Family and Children's Services Supervisor. ~~(3-18-99)~~(____)

01. Priority I. The Department ~~shall~~ must respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement ~~shall~~ must be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child ~~shall~~ must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. ~~(3-30-01)~~(____)

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement ~~shall~~ must be notified within twenty-four (24) hours. The child ~~shall~~ must be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals which involve ~~issues~~ concerns of abuse or neglect. ~~(3-18-99)~~(____)

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse or neglect by parent(s) or legal guardian(s). A family

services worker ~~shall~~ must respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral.
~~(3-20-04)~~(____)

04. Notification ~~to Referent~~ of the Person Who Made the Referral. The Department ~~of Health and Welfare, Family and Children's Services, shall~~ must notify the ~~reporting individual~~ person who made the child protection referral of the receipt of the referral within five (5) days.
~~(3-18-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

558. COMMUNITY RESOURCES.
The Department ~~shall~~ will provide information and referral to community resources or may offer preventative services to the family. Information and referral services enable individuals to gain access to human services through providing accurate, current information on community and Department resources. ~~(3-18-99)~~(____)

559. CHILD PROTECTION ~~RISK~~ IMMEDIATE SAFETY AND COMPREHENSIVE ASSESSMENTS.
The Department's ~~risk~~ immediate safety and comprehensive assessments ~~shall~~ must be conducted in a standardized format and ~~shall~~ must utilize statewide ~~risk~~ assessment and multi-disciplinary team protocols. The assessment ~~shall~~ must include contact with the child or children involved and the immediate family and a records check for history with respect to child protection issues.
~~(3-30-01)~~(____)

01. Interview of a Child. The interview of a child concerning a child protection report ~~shall~~ must be conducted: ~~(3-18-99)~~(____)

a. In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including ~~but not limited to~~ multiple interviews; ~~(3-18-99)~~(____)

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-18-99)

c. In a neutral, non-threatening environment, such as a specially equipped interview room, if available. (3-18-99)

02. Interview of Family. Interview of the child's immediate family is mandatory in every case and may require the participation of law enforcement. The family services worker conducting the interview ~~shall~~ must: ~~(3-18-99)~~(____)

a. Immediately notify the parent(s) or legal guardian(s) being interviewed of the purpose and nature of the assessment. At the initial contact with family, the name and work phone numbers of the ~~case~~ family services worker and his~~/her~~ supervisor ~~shall~~ must be given to ensure the family has a contact for questions and concerns that may arise following the visit;

~~(5-3-03)~~(____)

b. Determine if the family is of Indian heritage for the purposes of ICWA; (3-18-99)

c. Interview siblings who are identified as being at risk; and (3-18-99)

d. Not divulge the name of the person making the report ~~during the course of the assessment~~ of child abuse or neglect. ~~(3-18-99)~~(____)

03. Collateral Interviews. Any assessment of an abuse or neglect report ~~shall~~ must include at least one (1) collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews ~~shall~~ will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. ~~(5-3-03)~~(____)

04. Completion of a Comprehensive ~~Risk~~ Assessment. An Immediate Protection/ Safety Plan will be completed on each referral assigned for assessment of abuse ~~and/~~or neglect, or both. When there are findings of moderate or higher risk and a case remains open, a comprehensive ~~risk~~ assessment must be completed within thirty (30) days of initial contact with the child of concern. ~~(3-30-01)~~(____)

05. Role of Law Enforcement. Section 16-1625, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the ~~risk~~ safety assessment for which they have the expertise and responsibility and consistent with the relevant multidisciplinary team protocol. Such areas include~~, but are not limited to~~: ~~(3-18-99)~~(____)

a. Interviewing the alleged perpetrator; (3-18-99)

b. Removing the alleged perpetrator from the child's home in accordance with Section 39-6301, Idaho Code, the "Domestic Violence Act"; and (3-18-99)

c. Taking a child into custody in accordance with Section 16-1612, Idaho Code, where a child is endangered and prompt removal from his or her surroundings is necessary to prevent serious physical or mental injury. (3-18-99)

06. Notification of ~~Referent~~ the Person Who Made the Referral. The ~~referent shall be~~ Department must ~~notified~~ notify the person who made the child protection referral when the risk assessment has been completed. ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

565. PETITION UNDER THE CHILD PROTECTIVE ACT.
If any incidence of child abuse, neglect, or abandonment is substantiated through ~~the risk~~ an immediate safety or comprehensive assessment, or both, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department ~~shall~~ must request the prosecuting attorney to file a Child

Protective Act petition. ~~(3-30-01)~~(____)

566. COOPERATION WITH LAW ENFORCEMENT.
The Department ~~shall~~ must cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. ~~(3-18-99)~~(____)

567. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.
Where no other community resources are available and when ordered by the district courts, the Department ~~shall~~ will, for a fee of thirty-five dollars ($35) per hour, conduct ~~risk~~ immediate safety and comprehensive assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child. ~~(3-30-01)~~(____)

01. Requests From Private Attorney. If a parent's attorney requests ~~a risk~~ an immediate safety or comprehensive assessment, or both, and a report of findings regarding the fitness of a parent, the attorney ~~shall~~ must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. ~~(3-18-99)~~(____)

02. Conduct of the Assessment. In conducting the assessment, the family services worker ~~shall~~ must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family ~~shall~~ must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. ~~(3-18-99)~~(____)

03. Report to Court. The family services worker ~~shall~~ will provide a report only to the Magistrate judge who ordered the assessment, and ~~shall~~ must use the Department's format for the assessment of need. The report ~~shall~~ must describe what was observed about the home conditions and the care of the child(ren). ~~(3-18-99)~~(____)

04. Department Clients. If the family is or has been a client of the Department, disclosure of information ~~shall~~ must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Protection of Department Records." ~~(3-18-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

642. ACCESS TO SERVICES.
The Department will prioritize services to seriously emotionally disturbed children and their families. Services may be accessed through a voluntary application for services or through involuntary legal proceedings. When regional service capacity is reached, every reasonable effort will be made to obtain alternative services for the child and family. Their names will also be placed on a waiting list for Department services. (3-30-01)

01. Local Resources and Plan Development. Children with serious emotional disturbances and their families may have access to local resources and services which do not require placement outside their home into alternate care. A plan will be developed between the Department, the parent(s) or legal guardian(s), the child, if appropriate, and the service provider. This plan will be specific, measurable and ~~*objective*~~ realistic in the identification of the goal(s), relevant ~~*issues*~~ areas of concern, ~~*objectives and outcomes*~~ and desired results. ~~*(5-3-03)*~~(____)

02. Payment for Treatment. When parent(s) or legal guardian(s) request Department payment for a child's treatment, a service agreement must be negotiated and signed by the parent(s) or legal guardian(s) and the Department. A referral will be made to Child Support Services to collect payment for the cost of out-of-home care. (5-3-03)

03. Involuntary Placement Under the Children's Mental Health Services Act. When a seriously emotionally disturbed child presents a significant danger to himself or herself and/or to others and the child's parent(s) or legal guardian(s) will not consent to a voluntary placement of the child, the child can be placed involuntarily through a court order. Involuntary Treatment Orders are limited to one hundred twenty (120) days and can be changed to a voluntary placement upon the request of the consenting parent(s) or legal guardian(s). At the end of one hundred twenty (120) days, a judicial redetermination is required to extend the involuntary treatment order for an additional set period of time. (5-3-03)

04. Use of Public Funds and Benefits. Public funds and benefits will be used to provide services for children with serious emotional disturbances and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, community resources ~~*shall*~~ will be provided to minimize the need for institutional or other residential placement. Services ~~*shall*~~ will be individually planned with the family to meet the unique needs of each child and family. Services ~~*shall*~~ will be provided without requiring that parent(s) or legal guardian(s) relinquish custody of the child. ~~*(3-20-04)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

701. SERVICES TO BE PROVIDED IN ADOPTIONS.
In addition to the core family and children's services provided in accordance with these rules, the Department ~~*shall*~~ must assure provision of the following: ~~*(3-30-01)*~~(____)

01. Response to Inquiries. Written or personal inquiries from prospective adoptive families ~~*shall*~~ must be answered within two (2) weeks. ~~*(3-18-99)*~~(____)

02. Pre-Placement Child/Family Assessment. An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-18-99)

03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic

Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-30-01)

04. (Pre-Placement) Home Study. An adoptive home study to ensure selection of an appropriate adoptive home. (3-18-99)

05. Preparation for Placement. Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his parents and assisting the child with the transition into an adoptive home. (5-3-03)

06. Technical Assistance. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-18-99)

07. Adoption Assistance. A determination of eligibility for adoption assistance ~~*shall*~~ must be made for each child placed for adoption through the Department prior to the finalization of his adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test ~~*shall*~~ may be applied to the adoptive family's income or resources. Once eligibility is established, the Division ~~*shall*~~ will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. ~~*(3-18-99)*~~(____)

08. Period of Support Supervision. Once a child is placed with an adoptive family, a period of support and supervision by the Department ~~*of*~~ lasting at least six (6) months ~~*shall occur*~~ must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least ~~*one*~~ six (~~*1*~~6) ~~*year*~~ months, the family may submit a written request to the Department's Family and Children's Services Program Manager to ~~*waive the standard support*~~ reduce the supervisory period to a minimum of three (3) months. ~~*(3-30-01)*~~(____)

09. Post Adoption Services. Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, ~~*(*~~whether from Idaho or from another state~~*)*~~, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children ~~*pursuant to*~~ under the Inter-Country Adoption of 2000 (P.L.106-279). Children with ~~*adoption assistance*~~ either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state ~~*shall*~~ will serve as a formal application for services in Idaho. Applications for Medicaid are made through ~~*Central Office*~~ the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." ~~*(5-3-03)*~~(____)

702. SERVICES TO BE PROVIDED IN LEGAL GUARDIANSHIPS.
In addition to the family services provided in accordance with these rules, the Department ~~*shall*~~ will provide the following: ~~*(5-3-03)*~~(____)

01. Preparation for Placement. Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from his parent(s) and assisting the child with the transition into the home of the legal guardian(s). (5-3-03)

02. Licensure. Potential legal guardian(s) must apply for and receive a foster care license before any child in the guardianship of the Department can be placed in their home. (5-3-03)

03. Financial Assistance to Obtain Guardianship. For potential legal guardian(s) who are not able to afford the attorney and court costs to obtain legal guardianship of a child in the Department's guardianship, financial assistance may be available from the Department. Financial assistance may be provided regardless of the guardian's state of residence. (5-3-03)

04. Eligibility for Guardianship Assistance. A determination of eligibility for guardianship assistance ~~*shall*~~ must be made for each child placed in a legal guardianship through the Department prior to the finalization of the guardianship. Eligibility for guardianship assistance is ~~*determined solely on the basis of*~~ based on the child's identified needs, and requires completion of the legal termination of parental rights and documentation of unsuccessful efforts to place the child for adoption. No means test ~~*shall*~~ may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. ~~*(5-3-03)*~~(____)

05. Guardianship Assistance Agreement. The region ~~*shall*~~ will negotiate a written guardianship assistance agreement with the prospective legal guardian(s). The agreement must be fully executed by all parties prior to the finalization of the guardianship in order to be valid. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate the child would receive if he or she were living in family foster care in Idaho. Idaho Medicaid benefits can only be used in Idaho. There is no reciprocity with other state's Medicaid programs. Guardianship benefits are subject to availability and are to be reviewed by the Department and the legal guardian(s) at least annually. This benefit terminates on the child's eighteenth birthday regardless of the child's academic standing, physical, or developmental delays. ~~*(5-3-03)*~~(____)

06. Revocation of Legal Guardianship. Any party including the Department or the child, if age fourteen (14) or older, may petition the court to have the legal guardian(s) removed. Guardianship assistance is terminated when a court revokes the guardianship. (5-3-03)

07. Termination of Guardianship Assistance When Child Leaves Home of the Legal Guardian(s). If guardianship is revoked and the child(ren) are returned to the Department's guardianship, guardianship assistance will be terminated. If it is anticipated that another legal guardian(s) will be appointed by the court, the new guardian(s) will need to complete application for guardianship assistance before the guardianship is finalized. The guardian(s) is required to immediately report to the Department any reason which would make them ineligible to receive guardianship assistance, such as, the child leaves the home, the child marries or enters the military. (5-3-03)

08. Retroactive Benefits. Legal guardians appointed on or before July 1, 2001, are not eligible for guardianship assistance. There will be no retroactive benefits paid by the Department for a child whose legal guardian(s) was appointed before July 1, 2001 or for guardians who did not negotiate a guardianship assistance agreement prior to the finalization of the guardianship. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

770. ADOPTIVE HOME STUDIES.
Pre-placement home studies for Department adoptions, independent, relative and step-parent adoptions ~~*shall*~~ must document the following: ~~*(3-20-04)*~~( )

01. Residence. References who can verify that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition. (3-18-99)

02. Verification of Ages of Adopting Parent(s). Legal verification that the person(s) adopting is at least fifteen (15) years older than the child or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, ~~*shall*~~ must be accomplished by: ~~*(3-20-04)*~~( )

a. Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-18-99)

b. Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards or naturalization papers. (3-30-01)

c. If verifying documentation is not available, the report ~~*shall*~~ must indicate the date and place of birth and reason for lack of verification. ~~*(3-18-99)*~~( )

03. Medical ~~*Examination*~~ Statement. A medical ~~*examination, with the medical report form signed and dated by the examining physician*~~ statement for each applicant, signed by a qualified medical professional, within the twelve (12) month period prior to application to be an adoptive parent, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child. ~~*(3-18-99)*~~( )

04. Photograph. A photograph of the adopting family. (3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

830. ~~*FEES FOR*~~ ADOPTION~~*S THROUGH THE DEPARTMENT*~~ APPLICATION FEE.
The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs~~*, purchase of*~~ and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs. ~~*Families who are not able to pay the costs associated with the pre-placement home study, supervisory reports, or the report to the court, may apply to the Regional Family and*~~

~~*Children's Services Program Manager for waiver of the fees.*~~ ~~*(3-20-04)*~~(____)

831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.
A family who cares for a child or children with special needs through the Department foster care program, who is not able to pay the costs associated with the pre-placement home study, supervisory reports, or the report to the court, may apply to the regional Family and Children's Services Program Manager for a waiver of some or all of the fees. If a family who receives a waiver of the pre-placement home study fee uses that home study to pursue adoption of a child not in the Department's custody, the Department will rescind the waiver and the family will be expected to pay the Department for the full cost of the study. (____)

832. FEE SCHEDULE - ADOPTIONS THROUGH DEPARTMENT.

TABLE 83~~4~~2	
Service	**Fee**
General Information/Adoption Inquiries	No Charge
Health and Welfare Application: Couple Single Parent	 $50 $25
Second Placement or Reapplication	$25
~~*Criminal History Check for each adult in the home*~~	~~*$34*~~
Pre-placement Home Study - Payment due at time of study or per agreement	$450
Report to Court under the Adoption Act	$150
Second Placement	$150
Placement Supervision Fee - Charged at the time of placement	$300
Closed Adoption Home Study/Court Report Retrieval Fee	$50
Report to the Court Under the Termination Act	$40 per hour

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

(BREAK IN CONTINUITY OF SECTIONS)

860. PROCEDURES FOLLOWING THE ADOPTIVE PLACEMENT.
Following the adoptive placement, ~~*there shall be*~~ a ~~*supervisory*~~ period of support and supervision by the Department lasting at least six (6) months ~~*before*~~ must be completed prior to the ~~*initiation*~~ finalization of ~~*legal*~~ the adoption ~~*proceedings*~~. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last ~~*twelve*~~ six (~~*12*~~6) months, the supervisory period may be reduced to a minimum of three (3) months.The family services worker ~~*shall*~~ will make scheduled visits to the home at least monthly during this period to assist the child and the family in their adjustment to each other and will update the

child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the ~~State Adoption~~ Permanency Program Specialist, the Department ~~shall~~ will request the prospective adoptive parent(s) contact their attorney. The regional family services worker ~~shall~~ will provide the attorney with the necessary documentation to file the petition for adoption. ~~(3-20-04)~~(____)

861. PROGRESS REPORTS.
Progress reports ~~shall~~ will be prepared regularly and ~~shall~~ will be based on the family services worker's findings. ~~(3-18-99)~~((____)

01. Initial and Subsequent Reports. The first progress report must be made within two (2) weeks after placement, and subsequent progress reports must be made at intervals not to exceed thirty (30) days. These reports ~~shall~~ will include: ~~(5-3-03)~~(____)

a. The family services worker's observation of the child and the prospective adopting parent(s), with emphasis on: (5-3-03)

b. Special needs/circumstances of child(ren) at time of placement; (3-18-99)

c. Services provided to child(ren) and family during report period; (3-18-99)

d. Services to be provided to child(ren) and family; (3-18-99)

e. General appearance and adjustment of child(ren) during report period (may include eating, sleep patterns, responsiveness, bonding); (3-18-99)

f. School/day care/day treatment program adjustment; (3-18-99)

g. Health/developmental progress, medical practitioner information; (3-18-99)

h. Whether the child(ren) have been accepted for coverage on family's medical insurance, when coverage begins, and whether there will be any limitations/exclusions; (3-30-01)

i. Family's adjustment to adoptive placement; (3-18-99)

j. Whether respite care is a need for the family; (3-18-99)

k. Changes in family situation or circumstances; (3-18-99)

l. Areas of concern during report period as addressed by both child(ren) and adoptive parent(s); and (5-3-03)

m. Date of next required six (6) month review or twelve (12) month permanency hearing; (3-18-99)

02. Monthly Foster Care Payments -- Pre-Adoptive Placement. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license. (3-20-04)

~~***03. Adoptive and Foster Home Studies**. A foster home evaluation completed by the Department of Health and Welfare or a licensed children's adoption agency forms the foundation of the pre-placement adoptive homestudy.* *(3-30-01)*~~

0~~4~~3. Final Progress Report. The final report ~~*shall*~~ must include pertinent information about the readiness of the child and the family for completion of the adoption. The family's decision to apply for adoption assistance benefits for the child should be documented. The family's attorney who will be handling the finalization of the adoption should be identified. The family's health insurance carrier should be identified, along with the date the child's medical coverage will begin. An up-to-date medical report on the child must be obtained from the child's physician, so that the Department will have current information about the health of the child. Any problem in placement ~~*shall*~~ must be brought to the attention of the Department. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

900. ADOPTION ASSISTANCE.
The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division ~~*shall*~~ will respond with a determination of the child's eligibility within forty-five (45) days. ~~*(3-18-99)*~~(____)

01. Determination of Eligibility for Title IV-E Adoption Assistance. The Bureau of Family and Children's Services ~~*shall*~~ will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance: ~~*(5-3-03)*~~(____)

a. Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria both at the time of removal from his home and in the month the adoption petition is filed. (5-3-03)

i. If the child is removed from his home pursuant to the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (5-3-03)

ii. If the child is removed from the home pursuant to a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be

eligible for Title IV-E adoption assistance. (5-3-03)

b. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. (5-3-03)

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (5-3-03)

ii. The circumstances of a child's removal from his home or whether the public child welfare agency has responsibility for the child's placement and care is not relevant. (5-3-03)

c. Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (5-3-03)

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held which lead to the removal of the child from his home; (5-3-03)

ii. At the time of the voluntary placement or relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (5-3-03)

d. Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. (5-3-03)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (5-3-03)

ii. The child continues to reside in the foster home with his minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. (5-3-03)

e. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. (5-3-03)

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. (5-3-03)

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (5-3-03)

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. (5-3-03)

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. (5-3-03)

02. ~~***Factors Considered***~~ **Special Needs Criteria**. The definition of special needs includes the following factors: ~~(3-18-99)~~(____)

a. The child cannot or should not be returned to the home of the parents; and (3-18-99)

b. The child has a physical, mental, emotional or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (3-18-99)

c. The child's age makes it difficult to find an adoptive home; or (3-18-99)

d. The child is a member of a sibling group that must not be placed apart; and (5-3-03)

e. State must make a reasonable but unsuccessful effort to place the child with special needs without a subsidy, except in cases where it is not in the best interests of the child due to his significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (5-3-03)

03. Determination of Eligibility for State Funded Adoption Assistance. Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. ~~(5-3-03)~~(____)

04. Interjurisdictional Adoptions. When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho ~~*shall be*~~ is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E ~~*or state-funded*~~ adoption assistance benefits. ~~(5-3-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

910. TYPES AND AMOUNTS OF ASSISTANCE.
The needs of the child and the family, including any other children in the family, ~~*shall*~~ will be considered in determining the amount and type of support to be provided. Assistance may include the following: ~~(3-18-99)~~(____)

01. Nonrecurring Adoption Reimbursement. Payment for certain one (1) time

expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. Documentation of expenses must be submitted. Costs are reimbursable up to two thousand dollars ($2,000) per child and are entered on the Adoption Assistance Program Agreement. Families applying for Nonrecurring Adoption Reimbursement separate from the regular Adoption Assistance program must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the finalization of the child's adoption. Families applying for Nonrecurring Adoption Expenses Reimbursement on behalf of a child who is adopted through an international adoption must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the family's departure to the foreign country and the child's adoption in the foreign country. Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. (5-3-03)

02. Monthly Cash Payment. Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. The amount ~~*shall*~~ must not exceed the rate for family foster care which would be made if the child were in a family foster home in Idaho. For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. For children who are currently eligible for Personal Care Services (PCS), the professional foster care rate may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. Benefits ~~*shall*~~ will continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. ~~*(5-3-03)*~~(____)

03. Title XIX -- Medicaid Coverage. Any ~~*special needs*~~ child ~~*for whom there is in effect*~~ with special needs who has an adoption assistance agreement ~~*shall*~~ in effect is also ~~*be*~~ eligible for medical coverage~~ *under Medicaid*~~. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage ~~*shall*~~ must apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance ~~*and other resources have been exhausted*~~ has reached its benefit limit. ~~*Coverage may begin while the family meets the*~~

~~*child's yearly deductible under the family's health care policy. Coverage may include routine medical costs or may be limited to costs related to specific medical problems of the child. For children who meet the definition of special needs at Subsection 900.02 of these rules and whose family has health insurance, Medicaid shall not be available for treatment of that specific disability until such time as the specific disability for which the child is known to be at risk becomes evident and treatment is medically necessary.*~~ All services reimbursed by Medicaid must be determined to be medically necessary. Prior authorization may be required for some Medicaid reimbursable services. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. ~~*(5-3-03)*~~(____)

04. Title XX -- Social Services. Any child with special needs who has an Adoption Assistance Agreement ~~*shall*~~ is also be eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. ~~*(5-3-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

923. DISRUPTION OF INTERNATIONAL ADOPTIONS.
The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state ~~*custody*~~ guardianship as a result of ~~*the disruption of a placement for adoption or*~~ termination of the parental rights of the adoptive parent and the dissolution of ~~*an*~~ the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the ~~*Bureau of Family and Children's Service Adoptions*~~ Department's Permanency Program Specialist in January of each year. ~~*(5-3-03)*~~(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING CHILD CARE LICENSING

DOCKET NO. 16-0602-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 changes to the proposed text are being made to clarify that a licensed foster home with pools, hot tubs, ponds, and other bodies of water must provide appropriate adult supervision consistent with the child's age, physical ability, and developmental level.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 288 through 297.

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 Kathy Morris at (208) 334-5706.

DATED this 17th day of November, 2006.

THIS 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 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 18, 2006.

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 Child Care Licensing rules are being amended to better protect young children living in licensed foster homes and children's residential care facilities. When the home or facility has a swimming pool, hot tub, pond, or other bodies of water on the property, there must be additional safety devices and barriers in place to keep the children safe.

Children placed in foster homes or residential care facilities currently must have a background check upon turning eighteen (18). These young adults will no longer be required to be fingerprinted and have criminal history and background checks when they stay in the same home or facility after turning eighteen (18). The Department will still be able to require these checks at any time, but they will not be automatically required. Also, the foster parents' child who turns eighteen (18) will not be required to have a criminal history check unless he moves away from the home and returns.

The rules on adoption are being updated to address the Multiethnic Placement Act, that prohibits the delay or denying placement of any child on the basis of race, color, or national origin. Other changes were made for plain language consistency with current Department practice.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year.

There will be minimal savings to the Department by no longer requiring the Department's criminal history and background checks for young adults in foster home care or children's residential care facilities who turn eighteen (18).

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these changes are necessary to protect children living in licensed foster care or children's residential care facilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Morris at (208) 334-5706.

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 Wednesday, October 25,

2006.

DATED this 23rd day of August, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
Pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, the Idaho Legislature has granted authority to the Department and Board of Health and Welfare to adopt and enforce rules governing standards for licensure or certification of foster homes, children's agencies and children's residential care facilities. ~~*(4-11-06)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. Idaho Statutes. The following are the Idaho Statutes incorporated by reference in this chapter of rules; (3-30-01)

a. Accreditation of Secondary Schools - Standards for elementary schools, Section 33-119, Idaho Code. (3-30-01)

b. Adoption Statutes. Sections 16-1501 through 16-1512, Idaho Code. (3-30-01)

c. Child Labor Laws. Sections 44-1301 through 44-1308, Idaho Code. (3-30-01)

d. Termination of Parental Rights. Sections 16-2001 through 16-2015, Idaho Code. (3-30-01)

e. Residential Schools. Section 39-1207, Idaho Code. (3-30-01)

02. Uniform Fire Code. The Uniform Fire Code as outlined by Section 41-253, Idaho

Code. The addition for the year prior to the issuance of the license ~~shall~~ will be used. Published by Western Fire Chiefs Association and International Conference of Building Officials. A copy is available at any Idaho State Library. ~~(3-30-01)~~(____)

03. Uniform Building Code. The Uniform Building Codes as outlined in Section 39-4109, Idaho Code. The addition for the year prior to the issuance of the license ~~shall~~ will be used. Published by International Conference of Building Officials. A copy is available at any public library in Idaho. ~~(3-30-01)~~(____)

04. Federal Laws and Regulations. ~~(3-30-01)~~(____)

a. Immigration and Naturalization Service, Title 8 CFR 204.3.c INA 101.b F1994. (3-30-01)

b. Indian Child Welfare Act, PL 95-608, 25 USC, 1901 - 1963. (3-30-01)

c. Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188 (____)

05. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. (3-30-01)

06. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at, http://www.cpsc.gov/cpscpub/pubs/cribs.html. (3-30-01)

07. National Research Council. National Research Council, Internet address, www.nas.edu.nrc. National Academy of Sciences, 2101 Constitution Ave., N.W., Washington, DC 20418. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

008. ~~—009.~~ (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for providers who are licensed or certified under these rules. Providers who are required to have a criminal history check must comply with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," with the exception of those individuals described in Subsection 009.04 of these rules. (____)

02. When Certification or License is Granted. The applicant must have a completed criminal history and background check, including clearance, prior to certification or licensure. Any other adult living in the home must complete a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Rules Governing Mandatory

Criminal History Checks." ( )

03. Applicants and Providers Subject to Criminal History Check Requirements. The following applicants and providers must receive a criminal history and background check: ( )

a. Adoptive Parents. The criminal history and background check requirements applicable to adoptive parents are found in Subsection 671.02 of these rules. ( )

b. Child Care Facility Staff. The criminal history and background check requirements applicable to a child care facility are found in Section 109 of these rules. ( )

c. Children's Agency Facility Staff. The criminal history and background check requirements for a children's agency facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. ( )

d. Children's Residential Care Facility Staff. The criminal history and background check requirements for a children's residential care facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. ( )

e. Children's Therapeutic Outdoor Program Staff. The criminal history and background check requirements for a children's therapeutic outdoor program are found in Section 810 of these rules and in Section 39-1208(8), Idaho Code. ( )

f. Day Care Facility Staff. The criminal history and background check requirements applicable to licensed day care providers are found in Section 109 of these rules and in Section 39-1105, Idaho Code. ( )

g. Licensed Foster Care Home. The criminal history and background check requirements applicable to licensed foster care are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. ( )

04. Exceptions to Criminal History and Background Checks. Criminal history and background checks are optional for certain youth placed in licensed foster homes and licensed residential care facilities. ( )

a. Youth in foster care who reach the age of eighteen (18) and continue to reside in the same licensed foster home. ( )

b. Youth in a children's residential care facility who reach the age of eighteen (18) and continue to live in the same licensed residential facility. ( )

05. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual who is a permanent resident of a licensed foster home or a licensed residential facility. **( )**

(BREAK IN CONTINUITY OF SECTIONS)

404. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.
All applicants for a foster care license and other adult members of the household ~~*shall*~~ must comply with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," and the following requirements: ~~*(3-30-01)*~~(____)

01. Required Procedures. Each applicant for a foster home license, and any other adult member~~*(s)*~~ of the household, ~~*shall*~~ must participate in a criminal history and background check as required by Section 39-1211(4), Idaho Code~~ *and in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"*~~. ~~*(3-30-01)*~~(____)

02. Change in Household Membership. By the next working day after another adult begins residing in a licensed foster home, a foster parent ~~*shall*~~ must notify the children's agency of the change in household membership and assure that the new adult member of the household ~~*shall*~~ will participate in a criminal history and background check~~*s*~~ as required by Section 39-1211(4), Idaho Code~~ *and in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"*~~. ~~*(3-30-01)*~~(____)

03. Foster Parent's Child Turns Eighteen. A foster parent's child who turns eighteen (18) and continues to live in the home is not required to have a criminal history and background check. (____)

a. If the adult child moves out of the foster parent's home for longer than ninety (90) days and returns to live in the licensed foster home as a permanent resident, he must complete a criminal history and background check within fifteen (15) days of his return. (____)

b. If the adult child leaves the foster home for the purpose of higher education or military service, and returns for less than ninety (90) days, he is not considered to reside in the licensed foster home and is not required to complete a criminal history and background check. He cannot have any unsupervised direct care responsibilities for any foster children in the home. Should he remain in the foster home for ninety (90) days or longer, he must complete a criminal history and background check within fifteen (15) days. (____)

c. If the adult child continues to live in his parent's licensed foster home or on the same property, he must complete a criminal history and background check within fifteen (15) days of turning twenty-one (21), This requirement is not necessary if the adult child has completed a criminal history and background check between the ages of eighteen (18) and twenty-one (21). (____)

04. Criminal History and Background Check at Any Time. The Department retains the authority to require a criminal history and background check at any time on individuals who are permanent residents of a licensed foster home. (____)

(BREAK IN CONTINUITY OF SECTIONS)

430. CHILD CARE AND SAFETY REQUIREMENTS.
The property, structure, premises, and furnishings of a foster home ~~*shall*~~ must be constructed and maintained in good repair, in a clean condition, ~~*and*~~ free from safety hazards and dangerous machinery and equipment ~~*accessible to children*~~. Areas and equipment that present a hazard to children ~~*in care shall be fenced*~~ must not be accessible by children. ~~*(3-30-01)*~~(____)

01. Pools, Hot Tubs, Ponds, and Other Bodies of Water. Any licensed foster home with a body of water on or adjacent to their property must provide the following safeguards: (____)

a. Around any body of water, a foster child must have *appropriate* adult supervision *consistent* with the child's age, physical ability, and developmental level; (____)

b. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or (____)

c. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; (____)

i. Pool or hot tub covers must be completely removed when in use; (____)

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; (____)

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and (____)

d. Exterior ladders on above ground pools must be removed when the pool is not in use. (____)

02. Access by Children Five Years of Age and Under. Any licensed foster home that cares for children five (5) years of age and under and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: (____)

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (____)

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (____)

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and (____)

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. (____)

03. Irrigation Canals or Similar Body of Water. A licensed foster home caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water by the child. (____)

04. Other Safety Water Precautions. (____)

a. Wading pools must be empty when not being used; (____)

b. Children must be under direct supervision of an adult while using a wading pool; (____)

c. Toys that attract young children to the pool area must be kept picked up and away for the pool area when not in use; and (____)

d. A child who does not know how to swim must use an approved lifesaving personal flotation device. (____)

(BREAK IN CONTINUITY OF SECTIONS)

665. SERVICES FOR CHILD'S BIRTH PARENTS.
A children's agency that accepts custody of a child from a birth parent or parents ~~*shall*~~ must provide services for the parent or parents either directly or through cooperative arrangements. The children's agency ~~*shall*~~ must ensure that the legal rights of the birth parents are protected throughout the decision-making about release of records, as required by statutes governing Termination of Parental Rights and Adoptions. The children's agency ~~*shall*~~ will respect the expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not deny or delay placement of the child for adoption in accordance with the Multiethnic Placement Act (MEPA), and such considerations are legal. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

671. FAMILY HOME STUDY, ADOPTION, APPLICATION PROCESS AND CONTENT.
A children's agency ~~*shall*~~ must complete a written family home study application before approving the home for the placement of a child for purposes of adoption. ~~*(3-30-01)*~~(____)

01. Background Information. An applicant for adoption ~~*shall*~~ must provide the

children's agency with the names of each adult member of the household, and signed releases to obtain any of the information required in Sections 400 through 499 of these rules for each member. ~~(3-30-01)~~(____)

02. Required Information. The adoptive home study ~~shall~~ must include applicable information required in Section 405 of these rules and ~~shall include~~ the following information: ~~(3-30-01)~~(____)

a. Any relevant findings from the criminal history and background checks; ~~(3-30-01)~~(____)

b. Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; (3-30-01)

c. Understanding of the purpose and permanence of adoption; (3-30-01)

d. How long the applicants have considered adoption; (3-30-01)

~~**e.** *Which partner initiated the adoption;* (3-30-01)~~

~~f~~e. The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (3-30-01)

~~g~~f. Family's attitudes toward the adoptive child's family and willingness to allow them contact with the child after adoption; (3-30-01)

~~h~~g. Prior and current experiences with out-of-home care for the applicant's children; (3-30-01)

~~i~~h. Applicant's experience with other helping agencies or resources in their communities; (3-30-01)

~~j~~i. Applicant's comfort level in seeking help from services outside the family; (3-30-01)

~~k~~j. Applicant's awareness of the potential for the child to have identity problems and loss regarding separation from birth parents; (3-30-01)

~~l~~k. Applicants understanding of and disclosure of the circumstances of the adoption to the child; (3-30-01)

~~m~~l. Applicants understanding that the child will have questions about birth parents and other relatives; (3-30-01)

~~n~~m. Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional and educational characteristics of children preferred; (3-30-01)

~~o~~**n.** Information on the adoptive family's medical insurance coverage including insurance carrier, policy number, eligibility of new adoptive family member(s), limitations and exclusions; and (3-30-01)

~~p~~**o.** Any other information deemed necessary to complete the study. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

673. SELECTION OF AN ADOPTIVE PLACEMENT.
The factors listed are in random order and are not intended to reflect relative priority. A children's agency ~~*shall*~~ must consider the following factors in selecting suitable adoptive parents for a child: ~~*(3-30-01)*~~(____)

01. Child's Needs. The physical, emotional, medical, and educational needs of the child. (3-30-01)

02. Continued Contact. The child's needs for continued contact with the birth parent(s), siblings, relatives, foster parents, and other persons significant to the child. (3-30-01)

03. Racial, Ethnic, and Cultural Considerations. In accordance with the Multiethnic Placement Act (MEPA), the child's racial, ethnic, cultural identity, heritage, and background may only be considered if a written assessment of the child indicates that such consideration is in the best interest of the child. ~~*(3-30-01)*~~(____)

04. Authorized Placement on Approved Recommendations. The children's agency ~~*shall*~~ must require authorization by a chief administrator after the recommendations of approval are given by a service worker supervisor. The approval or denial ~~*shall*~~ must be documented in the case record. ~~*(3-30-01)*~~(____)

05. Placement. A children's agency ~~*shall*~~ will place a child with children's agency-approved adoptive parents consistent with the recommendations specified in the adoptive family study and the needs of the child identified in these rules. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

749. SWIMMING POOL, POND, OR OTHER BODY OF WATER.
An above-ground or in-ground swimming pool, pond, or other body of water on the premises of a children's residential care facility for use by children ~~*shall*~~ must comply with Section ~~*39-105*~~ 56-1003(3)(d), Idaho Code, and applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing and life saving provisions of federal, state, county and municipal laws, regulations and ordinances. ~~*They shall be maintained in a clean and safe manner, safeguarded when not in use by children, have sufficiently clear water to allow easy*~~

~~*visibility in all areas of the pool or body of water used by children, and maintain at least one (1) staff on duty at all times when children are in the water who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization.* (3-30-01)~~(____)

01. Staff Person with Lifesaving or Lifeguard Certificate. The facility must maintain at least one (1) staff person who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. This certified staff person must be on duty at all times when children are in the water. (____)

02. Pools, Hot Tubs, Ponds, and Other Bodies of Water. The facility must maintain the pools, hot tubs, ponds, and other bodies of water on its property in good repair, in a clean condition, and free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The following safeguards must be provided: (____)

a. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or (____)

b. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; (____)

i. Pool or hot tub covers must be completely removed when in use; (____)

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; (____)

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and (____)

c. A reaching pole with a hook and a ring buoy must be accessible; and (____)

d. Exterior ladders on above ground pools must be removed when the pool is not in use. (____)

03. Access by Children Five Years of Age and Under. Any children's residential care facility that cares for children five (5) years of age and under, and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: (____)

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (____)

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (____)

c. If a building forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and (____)

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. (____)

04. Irrigation Canals or Similar Body of Water. A children's residential care facility caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable whose property adjoins an irrigation canal must have fencing that prevents access to the canal or similar body of water by the child. (____)

05. Other Water Safety Precautions. (____)

a. Wading pools must be empty when not being used; (____)

b. Children must be under the direct supervision of an adult while using a wading pool; (____)

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use; and (____)

d. A child who does not know how to swim must use an approved lifesaving personal flotation device. (____)

(BREAK IN CONTINUITY OF SECTIONS)

784. STAFF QUALIFICATIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL FACILITY.

01. Chief Administrator. Qualifications of the chief administrator ~~*shall*~~ must be verified through written documentation of work experience, education and classroom instruction. The chief administrator ~~*shall*~~ must have at least: ~~*(3-30-01)*~~(____)

a. A Master's degree from an accredited college or university in a relevant field and two (2) years of paid full-time experience with one (1) year in administration; or (3-30-01)

b. A Bachelor's degree from an accredited college or university in a relevant field and three (3) years of paid full-time experience with one (1) year in administration; and (3-30-01)

c. Knowledge and demonstrated competence in planning, budget development and other administrative duties. (3-30-01)

02. Clinical Director Qualifications. A clinical director ~~*shall*~~ must have at least: ~~*(3-30-01)*~~(____)

a. A Master's Degree from an accredited college or university in a relevant field and five (5) years of paid full-time experience with three (3) years experience in direct alcohol-drug

abuse treatment; (3-30-01)

b. Knowledge and experience and demonstrated competence in treatment including client evaluation, counseling techniques, relapse prevention, case management and family systems; and (3-30-01)

c. Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol and drugs on a child's growth and development. (3-30-01)

03. Program Supervision Qualifications. A program supervisor, located at the children's residential care facility ~~*shall*~~ must possess at least: ~~*(3-30-01)*~~( )

a. Five (5) years of full-time paid experience in alcohol-drug abuse treatment with at least two (2) years in direct treatment; or (3-30-01)

b. A Master's degree from an accredited college or university and three (3) years of paid full-time experience with two (2) years in direct alcohol-drug treatment; or (3-30-01)

c. A Bachelor's degree from an accredited college or university in a relevant field and four (4) years of paid full-time experience with two (2) years in direct alcohol-drug treatment; and (3-30-01)

d. One (1) year of paid full-time experience in supervision; and (3-30-01)

e. Knowledge and experience and demonstrated competence in alcohol-drug treatment, including client evaluation, counseling techniques, relapse prevention, case management and family systems; and (3-30-01)

f. Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol-drugs on a child's growth, and development. (3-30-01)

04. Counselor Qualifications. The~~*re shall be*~~ facility must have a ratio of at least one (1) alcohol-drug counselor for every six (6) children in treatment~~*or fraction thereof*~~. ~~*An*~~ The alcohol-drug counselor ~~*shall have*~~ must meet the following qualifications: ~~*(3-30-01)*~~( )

a. Five (5) years of full-time paid experience in alcohol-drug abuse treatment with at least two (2) years in direct alcohol-drug treatment with children; or (3-30-01)

b. A Bachelor's degree from an accredited college or university in a relevant field and two (2) years of paid full-time experience with one (1) year in direct alcohol-drug abuse treatment with children; and (3-30-01)

c. Possess certification or licensure by a state or nationally recognized alcohol-drug addiction counselor credentialing or certifying organization which requires: (3-30-01)

i. Knowledge and skill acquired through at least two-thousand (2000) hours of a combination of specialized training, education and experience with direct treatment of children; and (3-30-01)

ii. Thirty (30) hours of classroom instruction in child development; and (3-30-01)

iii. A working knowledge of family systems as documented through experience, course-work or training. (3-30-01)

d. An alcohol-drug counselor hired prior to ~~*the effective date of these rules shall meet all requirements by June 30, 2004*~~ January 1, 2007, will have three (3) years to complete the minimum requirements as described in Subsections 784.04.a. through 784.04.c. of these rules. A counselor hired ~~*after June 30, 2001 will have three (3) years from date of employment to*~~ on January 1, 2007, or after must meet ~~*these criteria*~~ all requirements. (3-30-01)

05. Direct Care Staff Qualifications. Direct care staff ~~*shall*~~ must have at least sixteen (16) hours of training in basic alcohol-drug abuse issues, addressing dependency, enabling, co-dependency and confidentiality within sixty (60) days of employment. ~~*(3-30-01)*~~(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.04 - RULES FOR STATEWIDE AND REGIONAL INTERDEPARTMENTAL SUBSTANCE ABUSE COORDINATING COMMITTEES

DOCKET NO. 16-0604-0601 (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 2007 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 The action is authorized pursuant to Chapter 3, Title 39, Idaho Code and HB833 (2006) amending this chapter of 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 6, 2006 Idaho Administrative Bulletin, Vol. 06-9, page 95.

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 repeal of this chapter of rule by itself does not create a fiscal impact; however, the amendments to Idaho Code found in HB833 do create a fiscal impact. The Department of Health and Welfare determined an estimated fiscal impact to the Department of $14,500. This amount is being redirected from existing funds that were being used for other costs associated with substance abuse issues. In addition to the cost for Health and Welfare, it is estimated that the partnering agencies would incur a cost of approximately $75,000 annually. This cumulative amount will come from existing funds since no additional funding has been provided. All identified funds in this fiscal impact are general funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bethany Gadzinski at (208) 334-5756.

DATED this 3rd day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Chapter 3, Title 39, 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 20, 2006.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking: This chapter of rule is being repealed due to new legislation adopted by the 2006 Legislature under HB833. The new statute replaces the text in this chapter of rule with new guidelines for the substance abuse coordinating committees eliminating the need for this chapter.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. The repeal of this chapter of rule by itself does not create a fiscal impact; however, the amendments to Idaho Code found in HB833 do create a fiscal impact. The Department of Health and Welfare determined an estimated fiscal impact to the Department of $14,500. This amount is being redirected from existing funds that were being used for other costs associated with substance abuse issues. In addition to the cost for Health and Welfare, it is estimated that the partnering agencies would incur a cost of approximately $75,000 annually. This cumulative amount will come from existing funds since no additional funding has been provided. All identified funds in this fiscal impact are general funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Bethany Gadzinski at (208) 334-5756.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this 28th day of July, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16.06.04 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.06 - DEVELOPMENTAL DISABILITIES FAMILY SUPPORT AND IN-HOME ASSISTANCE

DOCKET NO. 16-0606-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 56-202(b) and 39-5103, 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 amendments to the pending rule clarify the definition of the term "family," clarify and further streamline the grievance process, and add one additional reason for termination of Family Support assistance. Changes were based on input received during the public comment period. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 298 through 305.

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 Cameron Gilliland at (208) 334-5536.

DATED this 6th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

DEPARTMENT OF HEALTH & WELFARE ***Docket No. 16-0606-0601***
Developmental Disabilities Family Support/In-Home Assistance ***PENDING RULE***

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking is under the authority of Sections 56-202(b) and 39-5103, Idaho Code.

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

Wednesday, October 18, 2006 - 6:00 pm
Department of Health & Welfare Region IV Office
1720 Westgate Drive
Suite D, Room 119
Boise, Idaho 83704

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

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

In order to provide enforceable standards for the Developmental Disabilities Family Support and In-Home Assistance program, the Department has created a new chapter of rule under the provisions of Title 39, Chapter 51, Idaho Code. This program provides funding for services and equipment to help individuals with developmental disabilities to continue to live with their families, prevent institutionalization, improve access to community supports, use existing resources efficiently, and obtain enhanced care. This new chapter provides rules to replace the guidelines that are currently used to administer the program and adds a new grievance procedure option as a less costly alternative to the more formal administrative appeals process that still remains as an option.

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 fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year.

There is no anticipated fiscal impact to the state general fund as result of this new chapter of rules. The costs for this program have been appropriated through the Department's budget process and will be cost-neutral.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 7, 2006, Vol. 06-6, page 105.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cameron Gilliland at (208) 334-5536.

Anyone may submit written comments regarding this proposed rulemaking. All written comments

must be directed to the undersigned at the address below and delivered on or before Wednesday, October 25, 2006.

DATED this 11th day of August, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax; kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 16
TITLE 06
CHAPTER 06

16.06.06 - DEVELOPMENTAL DISABILITIES FAMILY SUPPORT AND IN-HOME ASSISTANCE

000. LEGAL AUTHORITY.
The Director of the Idaho Department of Health and Welfare has the authority to promulgate these rules under Sections 56-202(b) and 39-5103, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.06.06, "Developmental Disabilities Family Support and In-Home Assistance." ( )

02. Scope. This chapter contains the general standards for administering the Developmental Disabilities Family Support and In-Home Assistance program, hereafter referred to as "DD Family Support." ( )

002. WRITTEN INTERPRETATIONS.
There are no written interpretations for this chapter of rules. ( )

003. GRIEVANCE PROCEDURE AND ADMINISTRATIVE APPEALS.

01. Grievance Procedure. Families who wish to appeal a benefit decision may file a grievance in accordance with Section 025 of these rules. The purpose of this option is to provide a means of resolving disputes over benefits without the need to resort to the formal administrative

appeals process. However, the administrative appeals process remains available as an option. ( )

02. Administrative Appeals. Administrative appeals are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference in this chapter of rules. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

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

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ( )

04. Telephone. (208) 334-5500. ( )

05. Internet Website Address. The website address is: http://www.healthandwelfare.idaho.gov. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

007. (RESERVED).

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse and Misconduct." ( )

009. (RESERVED).

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: ( )

01. Department. The Idaho Department of Health and Welfare (IDHW) or a person authorized to act on behalf of the Department. ( )

02. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: ( )

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and ( )

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and ( )

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. ( )

03. Developmental Disabilities (DD) Family Support and In-Home Assistance Program. A Department program that operates under the authority of Title 39, Chapter 51, Idaho Code. The purpose of this program, also known simply as the "DD Family Support Program," is to provide assistance for families of individuals with developmental disabilities who are institutionalized, or to families of such individuals for whom institutionalization may be imminent, and who will, as a result of DD Family Support assistance, be able to return or keep their family member home. Additionally, DD Family Support assistance is intended to help families prior to a crisis in order to prevent the need for a family member with a developmental disability to move to an institutional or residential placement outside of the family's home.( )

04. Developmental Disabilities (DD) Family Support Assistance. Funding provided to eligible families under the DD Family Support program. ( )

05. Developmental Disabilities (DD) Family Support Council. A volunteer group, made up mostly of people with developmental disabilities or their family members, whose purpose is to advise and consult with the Department in matters relating to the DD Family Support program. ( )

06. Director. The Director of the Idaho Department of Health and Welfare or his designee. ( )

07. Family. The term "family" does not include paid providers of care *or providers of foster care*. A family, as defined in Section 39-5102(6), Idaho Code, is a group of interdependent persons residing in the same household and includes an individual with a developmental disability and one (1) or more of the following: ( )

a. A birth or adoptive mother or father, stepparent, brother, sister, or any

combination; ( )

b. Extended blood relatives, such as a grandparent, aunt, uncle, nephew, or niece; or ( )

c. A legal guardian. ( )

08. Title IV-E. The title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children. ( )

011. -- 024. (RESERVED).

025. GRIEVANCE PROCEDURE.

01. How Does a Family File a Grievance? Families who wish to file a grievance regarding a benefit decision must do so within thirty (30) days of receiving the decision. To file a grievance, families must submit a written request that outlines their reasoning to one (1) of the following: ( )

a. A DD Family Support Council, where available; ( )

b. The Regional Program Manager; or ( )

c. The Department's Central Office Program Manager. ( )

02. How is the Grievance Request Reviewed? ( )

a. The grievance request will be reviewed by the local DD Family Support Council, where available. ( )

b. If a DD Family Support Council is not available, or if a family disagrees with the decision of the DD Family Support Council, they may present a written grievance request to the Regional Program Manager. ( )

c. The Regional Program Manager will then *contact the FACS Central Office Program Manager and* two (2) individuals *from the region* to assist him with his review of the grievance. The two (2) individuals *from the region* selected by the *Regional* Program Manager may include members of the local DD Family Support Council, where available, or staff members with expertise in DD Family Support or Developmental Disabilities. *The Regional Program Manager will issue a written decision regarding the grievance request within twenty (20) days after the grievance request was received.* ( )

d. The Regional Program Manager will render a written decision on the grievance request within twenty (20) days of receiving the grievance. ( )

0*3*. What Other Remedies are Available After the Grievance Process? If the family is still not satisfied with the decision, they may *file* an administrative appeal as provided under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory

Rulings." ( )

026. -- 099. (RESERVED).

100. WHO IS ELIGIBLE FOR DEVELOPMENTAL DISABILITIES (DD) FAMILY SUPPORT ASSISTANCE?
Families who reside in Idaho and include a member with a developmental disability are eligible to receive DD Family Support assistance. The family must express a desire for the member with a developmental disability to reside at home and must submit a DD Family Support application to receive services. Families must obtain the agreed-upon services and account for the assistance funds expended for these services or equipment. ( )

01. How is the Determination of a Developmental Disability Made? The family member with a developmental disability must be determined by the Department to meet the developmental disability standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501. ( )

02. What Financial Information Must Be Provided? Families will not be asked to provide financial information as a requirement for participation in the DD Family Support program. Eligibility for the DD Family Support program will be determined by the Department separately from the determination of the benefit. The Department may require additional information of families in order to make eligibility decisions. ( )

101. WHO IS NOT ELIGIBLE TO RECEIVE DD FAMILY SUPPORT ASSISTANCE?
Paid providers of care are not eligible for DD Family Support assistance. A paid provider of care is anyone who receives state or federal payment for the care or therapy of an individual who has a developmental disability. An adoptive family receiving Title IV-E funds as part of an adoption agreement is not considered to be a paid provider of care and will not be excluded from receiving DD Family Support assistance because they receive Title IV-E funds. ( )

102. -- 199. (RESERVED).

200. HOW DOES A FAMILY APPLY FOR DD FAMILY SUPPORT ASSISTANCE?

01. Application for Service. Each family who wishes to receive DD Family Support assistance must apply for the assistance using the Department-approved "DD Family Support Application." ( )

02. Prior Authorization of Expenditure. Due to the limited funds available, the Department must approve the application and prior authorize the expenditure of assistance funds before the award of assistance is made to ensure that funds for the requested assistance for the identified needs are available. ( )

201. -- 299. (RESERVED).

300. HOW IS THE AMOUNT OF DD FAMILY SUPPORT ASSISTANCE DETERMINED?

01. Decisions Made Case-By-Case. The Department will determine each award of DD Family Support assistance on a case-by-case basis, with advice from DD Family Support Councils where they are available. The award of DD Family Support assistance in one (1) case sets no precedence for the award of DD Family Support assistance in the future. There is no guarantee that DD Family Support assistance funds will be available when a family applies. The Department may require additional information from families in order to make benefit decisions. ( )

02. Bases for DD Family Support Assistance Decisions. The Department will base its decisions regarding the award of DD Family Support assistance on the following: ( )

a. The ability of the assistance to allow an individual with a developmental disability to move into his family's home from an institution. ( )

b. The ability of the assistance to prevent the necessity of an individual moving into an institution. ( )

c. Priority will be given to families whose member with a developmental disability would face the most severe consequences without supports. ( )

d. Priority will be given to families whose member with a developmental disability has the greatest urgency of need. ( )

e. DD Family Support assistance is contingent on the availability of state and regional funding. ( )

301. WHAT SERVICES AND EQUIPMENT MAY BE PURCHASED USING DD FAMILY SUPPORT ASSISTANCE?

DD Family Support assistance can be used for any of the following items when those items are listed on the approved DD Family Support application. Assistance may only be used when no other payment source is available to the individual with a developmental disability, or his family, to purchase the items requested on the DD Family Support application. The following services and equipment may be purchased under the DD Family Support program: ( )

01. Diagnostic or Evaluative Procedures. Diagnostic and evaluative procedures that are necessary to ensure the health and well-being of the individual with a developmental disability. ( )

02. Special Equipment. Special equipment or items required by the individual with a developmental disability or needed to assist the family to care for that individual. ( )

03. Therapeutic Services. Therapeutic Services to assist the individual with a developmental disability toward independence, or to maintain or improve his health, or to enhance his quality of life. ( )

04. Specialized Dietary Needs. Foods or nutrients required to meet the specialized dietary needs of the individual with a developmental disability. ( )

05. Medical and Dental Care. Medical and dental care that is not covered under the family's health insurance or publicly-funded programs. Such care must be required to maintain or improve health or to enhance quality of life for the family member with a developmental disability. ( )

06. Home Health, Nursing, or Personal Assistance Services (PCS). Home health, nursing, or personal assistance services may be purchased when the family is unable to meet the care demands of the individual with a developmental disability. ( )

07. Counseling Services. Counseling Services may be purchased for the individual with a developmental disability, or his family. Such counseling services can include behavior management. ( )

08. Respite Care. ( )

a. Respite Care may be purchased using DD Family Supports assistance. Respite care may not be utilized in the place of day care when all caregiving family members are working. Assistance may be utilized for respite care or for out-of-the-ordinary expenses to cover supervised care beyond care costs expected for a typical person of the same age. ( )

b. Additional costs for the care of siblings during the provision of respite care may be covered when it is necessary for the primary caregivers to be absent. When the family caregivers must accompany the individual with a disability to treatment or evaluation appointments, reasonable sibling care costs may be covered. ( )

09. Adaptations or Technical Assistance. Environmental adaptations or technical assistance to permit successful integration and access for the individual with a developmental disability. ( )

10. Special Clothing. Specialized or adapted clothing required due to the family member's developmental disability, including incontinence supplies. Assistance may be used only for supplies that would exceed what a family would normally purchase except in extreme circumstances. ( )

11. Supports for Recreational Activities. Supports or assistance that allow the individual with a disability to join family and friends in leisure time or recreational activities. Assistance funds may not be used to pay for standard tickets, fees, or other costs that would typically be incurred by a person without a developmental disability. The necessary supports must be related to meeting special needs due to the developmental disability. ( )

12. Transportation. Transportation related to the care of the family member with a developmental disability. ( )

13. Housing Modifications. Housing modifications for the purposes of accessibility or ease in handling related to the needs of the person with a developmental disability. ( )

14. Similar or Related Costs. Costs for items or services that are similar in nature to the items listed above or are related to the effectiveness of the purchase of the items above.( )

302. WHAT PAYMENT OPTIONS ARE AVAILABLE FOR DD FAMILY SUPPORT ASSISTANCE?
Families may use DD Family Support assistance only for services and equipment authorized on the approved DD Family Support application. Families may request any of the following payment options for their DD Family Support assistance. ( )

01. Advance Payment. The Department may authorize advance payment to families on an as-needed basis. If a family does not utilize all of the assistance provided under the approved DD Family Support application, they must return any unspent funds to the Department. ( )

02. Payment After the Service Has Been Delivered or Item Purchased. The Department may reimburse families for services or equipment after the service has been delivered or the item purchased when those costs were prior-authorized on an approved DD Family Support application. ( )

03. Payment Directly to Vendors or Providers of Services or Equipment. The Department may pay vendors or providers of services or equipment directly. In order to be paid directly, vendors must provide the Department with an itemized invoice that includes vendor name, address, Social Security number or Tax Identification number, and other documentation as requested by the Department. ( )

303. WHAT ARE THE DOCUMENTATION REQUIREMENTS FOR DD FAMILY SUPPORT ASSISTANCE?

01. Documentation Requirements for the Family. Each family who receives DD Family Support assistance must provide documentation to the Department of how the DD Family Support assistance was spent. Documentation must be provided on the Department-approved forms. Families who do not account for the use of DD Family Support assistance or refuse to repay assistance funds not used for the approved purposes, may be deemed ineligible for DD Family Support assistance for a period of time, determined by the Department, that will not exceed twelve (12) months. ( )

02. Documentation Requirements for the Developmental Disabilities Program. The Developmental Disabilities Program will maintain documentation of DD Family Support applications and a record of approved expenditures. ( )

304. HOW IS DD FAMILY SUPPORT ASSISTANCE TERMINATED?
The Department may terminate DD Family Support assistance under any of the following conditions: ( )

01. Family Action. The family requests termination; ( )

02. Death of the Individual with a Disability. The individual in the family with a developmental disability dies; ( )

03. Ineligibility. The eligibility criteria for DD Family Support assistance is no longer

met; or ( )

04. Funding. Inadequate funds are available to continue providing DD Family Support assistance. ( )

***05. Failure to Account for or Misuse of Funds**. Families are unable or unwilling to account for funds previously received, or funds have been misused.* ( )

305. -- 399. (RESERVED).

400. WHAT ARE THE PURPOSE, COMPOSITION, AND ROLES OF A DD FAMILY SUPPORT COUNCIL?

01. The Purpose of a DD Family Support Council. A DD Family Support Council is a volunteer group whose purpose is to advise and consult with the Department in matters relating to DD Family Support. ( )

02. Composition of a DD Family Support Council. The majority of a council's members must be people with a developmental disability or family members of people with a developmental disability. A council may also include other community members. Each DD Family Support Council member must be selected and approved by the Department's Regional Program Manager. The Department will make efforts to assure broad geographic representation. The DD Family Support Council members will be registered as volunteers with the Department of Health and Welfare. ( )

03. Roles of a DD Family Support Council. The roles of a DD Family Support Council include: ( )

a. Advise the Department on the use of DD Family Support funds; ( )

b. Offer program guidance through assistance with the establishment of a family-friendly procedure for administering DD Family Support funds; ( )

c. Provide feedback and review of decisions related to the administration of DD Family Support funds; ( )

d. Provide information and referral about community supports and available resources to augment DD Family Support program funds and serve as a secondary resource when denials are necessary; and ( )

e. Provide advocacy for the DD Family Support program. ( )

401. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-0601 (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 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, 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 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, page 306.

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 Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

DATED this 3rd day of November, 2006.

THIS 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 56-202, 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 18, 2006.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule making:

This entire chapter of rules is being repealed. It will be replaced by a completely rewritten chapter proposed under Docket No. 16-0612-0602 that is published in this Bulletin immediately following this notice.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to the publication of the proposed rule because the existing chapter of rules is being repealed as part of the promulgation process for the rewrite. The entire ICCP chapter is being rewritten based on recommendations from the Office of Performance Evaluation (OPE), the Idaho Childcare Advisory Council, and Department staff.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 25, 2006.

DATED this 10th day of August, 2006.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16.06.12 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 temporary and proposed rule was published in the May 3, 2006, Idaho Administrative Bulletin, Volume 06-5, pages 60 through 64.

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 24th day of July, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-912(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 5:00 p.m. (MST) on May 17, 2006.

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

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

The purpose of this temporary/proposed rulemaking is to provide needed rule revisions to implement legislation (SB 1343) as enacted during the 2006 Legislative session. SB 1343 authorized the Board of Dentistry to conduct its licensing activities on a biennial basis, as opposed to the previously existing annual licensing system. Biennial licensing will allow the Board of Dentistry to stagger the renewal of dental and dental hygiene licenses over a two (2) year period so that only one (1) category of professional license would be renewed in each calendar year. This temporary/proposed rulemaking will implement the biennial licensing legislation by revising rules to effectuate a biennial licensing system and by deleting all references in the rules to annual or yearly licensing. This staggered, biennial renewal of licenses will create efficiencies by reducing the staff time and costs associated with license renewals by approximately fifty percent (50%). Other medical boards in Idaho renew professional licenses on a multiple year basis.

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

It is necessary to adopt this temporary/proposed administrative rule in order to comply with deadlines in governing law. The purpose of the temporary/proposed rulemaking is to promulgate administrative rules needed to implement SB 1343 as enacted by the Idaho Legislature during the 2006 legislative session. SB 1343 authorized the Board of Dentistry to conduct professional licensing on a biennial basis.

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

This rule does not impose any new fees or increase the existing license renewal fees. SB 1343 changed the Board of Dentistry's professional 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. This rule adjusted the amounts payable for license fees consistent with the longer effective period of the professional licenses. For example, an active status dental hygienist will now pay $140.00 for a two (2) year license as opposed to previously paying $70.00 for a one (1) year license.

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.

NEGOTIATED RULEMAKING: In that this rule is needed to implement SB 1343, negotiated rulemaking was not conducted on this temporary rule.

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.

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 May 24, 2006.

DATED this 12th day of April, 2006.

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 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)*~~(7-1-06)T

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)*~~(7-1-06)T

a. Active -- ~~*one*~~ three hundred ~~*and fifty*~~ dollars ($~~*15*~~300). ~~*(3-18-99)*~~(7-1-06)T

b. Inactive -- ~~*seventy-five*~~ one hundred and fifty dollars ($~~*75*~~150). ~~*(7-1-91)*~~(7-1-06)T

c. Specialty -- ~~*one*~~ three hundred ~~*and fifty*~~ dollars ($~~*15*~~300). ~~*(3-18-99)*~~(7-1-06)T

04. ~~*Annual*~~ **Biennial License Fees for Hygienists**: ~~*(3-18-99)*~~(7-1-06)T

a. Active -- ~~*seventy*~~ one hundred and forty dollars ($~~*7*~~140). ~~*(3-18-99)*~~(7-1-06)T

b. Inactive -- ~~*forty*~~ eighty dollars ($~~*4*~~80). ~~*(7-1-91)*~~(7-1-06)T

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*~~ successive license renewal date. ~~*(7-1-93)*~~(7-1-06)T

(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)*~~(7-1-06)T

(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)*~~(7-1-06)T

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)*~~(7-1-06)T

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)*~~(7-1-06)T

e. Any person who becomes licensed as an active dentist during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board. (7-1-06)T

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 renewal period. ~~*(4-6-05)*~~(7-1-06)T

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)*~~(7-1-06)T

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)*~~(7-1-06)T

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)*~~(7-1-06)T

e. Any person who becomes licensed as an active dental hygienist during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board. (7-1-06)T

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 renewal period shall be required at the time of the next successive license renewal to report a prorated amount of those continuing education credits required under this section as specified by the Board. ~~*(4-6-05)*~~(7-1-06)T

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 renewal period. ~~*(4-6-05)*~~(7-1-06)T

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, at page 346.

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 this administrative rule change.

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 24th day of October, 2006.

THIS 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 October 18, 2006.

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:

Effective as of August 1, 2006, the Idaho Board of Dentistry relocated to a new office space. The Administrative Rules of the Idaho Board of Dentistry must contain pertinent office information, including the Board of Dentistry's physical address. As such, Rule 5 of the Administrative Rules of the Board of Dentistry must be amended to remove the outdated office address and to include the Board of Dentistry's new office address.

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.

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 October 25, 2006.

DATED this 10th day of August, 2006.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
Jefferson Place Building
350 North 9th Street, Suite M-100
P.O. Box 83720, Boise, Idaho 83720-0021
(208) 334-2369 (telephone) / (208) 334-3247 (facsimile)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. OFFICE INFORMATION (RULE 5).
The Board of Dentistry office is located at ~~*708 ½ W. Franklin Street*~~ 350 North 9th Street, Suite

M-100, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0021. The telephone number of the Board is (208) 334-2369, the fax number is (208) 334-3247.

~~(3-15-02)~~(_____)

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, pages 347 through 349.

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 this administrative rule change.

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 24th day of October, 2006.

THIS 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 October 18, 2006.

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:

During the 2005 Idaho legislative session, statutes and rules were approved to authorize qualified dental hygienists to perform dental hygiene functions in extended access oral health care programs (typically, public and charitable dental programs). The Board of Dentistry now proposes to create and issue an extended access dental hygiene restorative license endorsement. The Board of Dentistry believes that persons treated in extended access oral health care programs would greatly benefit from efficiencies created by allowing qualified dental hygienists practicing under the direct supervision of a dentist to provide certain restorative treatment (placing fillings in a prepared tooth and carving, adjusting and contouring the fillings). At present, dental hygienists are not authorized to perform restorative treatment on a patient. In effect, a dentist could treat a greater number of patients in an extended access oral health care program if a dental hygienist could provide the restorative treatment (which now must be done by the dentist). To qualify for the restorative endorsement, an active status dental hygienist must successfully complete a specified clinical examination or hold an equivalent permit in another state. A qualified dental hygienist would have the extended access dental hygiene restorative endorsement placed on their existing dental hygiene license.

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. Information regarding this 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 October 25, 2006.

DATED this 10th day of August, 2006.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
Jefferson Place Building
350 North 9th Street, Suite M-100
P.O. Box 83720, Boise, Idaho 83720-0021
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

026. -- 02~~8~~7. (RESERVED).

028. VOLUNTEER DENTAL HYGIENE SERVICES (RULE 28).
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: ( )

01. Extended Access Oral Health Care Program. 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; ( )

02. Dental Hygiene Services Performed. 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; ( )

03. Volunteers. 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 ( )

04. Volunteer Time Limit. The dental hygienist may not provide dental hygiene services under this provision for more than five (5) days within any calendar month. ( )

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*~~**d.** ~~***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)*~~

02. Extended Access Dental Hygiene Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an extended access dental hygiene restorative endorsement may perform specified restorative functions under the direct supervision of a dentist in an extended access oral health care program. Permissible restorative functions under this endorsement shall be limited to the placement of a restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant an extended access dental hygiene restorative 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:

(____)

a. The person has successfully completed the Western Regional Examining Board's restorative examination or an equivalent restorative examination approved by the Board; or(____)

b. The person holds an equivalent restorative permit in another state as of the date of endorsement application which required successful completion of the Western Regional Examining Board's restorative examination or an equivalent restorative examination approved by the Board for its issuance; and (____)

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 in an extended access oral health care program. (____)

0~~4~~3. Renewal. Upon payment of the appropriate 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 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. (7-1-06)T

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0604

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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.

Rule 040 of the Administrative Rules of the Board of Dentistry contains a number of subsections that identify behavior that constitutes unprofessional conduct on the part of a dentist or dental hygienist. The Board of Dentistry proposes to amend existing Rule 040.18 to clarify the fact that unprofessional conduct not only includes the violation of a law governing dentistry but also includes the violation of any law pertaining to or affecting a person's fitness to practice dentistry. For example, many criminal laws do not govern the practice of dentistry, but a conviction for criminal conduct may pertain to or affect a person's fitness to practice dentistry. The change being made to the pending rule resulted from comments received by the Board of Dentistry and is intended to make it clear that the unprofessional conduct specified in the rule is not inclusive.

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 October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 350 through 352.

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 24th day of October, 2006.

BOARD OF DENTISTRY **Docket No. 19-0101-0604**
Rules of the Idaho State Board of Dentistry **PENDING RULE**

THIS 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 October 18, 2006.

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: Current Rule 40 of the Administrative Rules of the Board of Dentistry contains a number of subsections that identify behavior that constitutes unprofessional conduct on the part of a dentist or dental hygienist. A violation of any provision in Rule 40 may provide a basis for taking disciplinary action against a dental or dental hygiene license. The Board of Dentistry proposes to amend existing Rule 40.18 to clarify the fact that unprofessional conduct not only includes the violation of a law governing dentistry but also includes the violation of any law pertaining to or affecting a person's fitness to practice dentistry. For example, many criminal laws do not govern the practice of dentistry, but a conviction for criminal conduct may pertain to or affect a person's fitness to practice dentistry.

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.

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 October 25, 2006.

DATED this 10th day of August, 2006.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
Jefferson Place Building
350 North 9th Street, Suite M-100
P. O. Box 83720, Boise, Idaho 83720-0021
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

040. UNPROFESSIONAL CONDUCT (RULE 40).
A dentist or hygienist shall not engage in unprofessional conduct in the course of his practice. *The conduct specified in this rule shall not be construed as a complete list of unprofessional conduct, or as authorizing or permitting the performance of other or similar conduct, or as limiting or restricting the Board from holding that other or similar acts constitute unprofessional conduct.* Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: ~~(7-1-93)~~(____)

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. (7-1-93)

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed dentist or dental hygienist to practice dentistry or dental hygiene as defined in Title 54, Chapter 9, Idaho Code. (7-1-93)

03. Unlawful Practice. Aiding or abetting licensed persons to practice dental hygiene or dentistry unlawfully. (7-1-93)

04. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: (7-1-93)

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; (7-1-93)

b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. (7-1-93)

05. Controlled Substances. Prescribing or administering controlled substances not reasonably necessary for, or within the scope of, providing dental services for a patient. In prescribing or administering controlled substances, a dentist shall exercise reasonable and ordinary care and diligence and exert his best judgment in the treatment of his patient as dentists in good standing in the state of Idaho, in the same general line of practice, ordinarily exercised in like cases. A dentist may not prescribe controlled substances for or administer controlled substances to himself. A dentist shall not use controlled substances as an inducement to secure or

maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing controlled substances. (3-18-99)

06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. (7-1-93)

07. Discipline in Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. (3-18-99)

08. Altering Records. Alter a patient's record with intent to deceive. (7-1-93)

09. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Section 004. (7-1-93)

10. Abandonment of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. (7-1-93)

11. Use of Intoxicants. Practicing dentistry or dental hygiene while under the influence of an intoxicant or controlled substance where the same impairs the dentist's or hygienist's ability to practice dentistry or hygiene with reasonable and ordinary care. (7-1-93)

12. Mental or Physical Illness. Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: (7-1-93)

a. Mental illness; (7-1-93)

b. Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill. (7-1-93)

13. Consent. Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. (3-18-99)

14. Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. (3-18-99)

15. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and

control should know, that such a person is not qualified by training or by licensure to perform them. (3-18-99)

16. Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. (3-18-99)

17. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (7-1-93)

18. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry. ~~(3-18-99)~~(____)

19. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (7-1-93)

20. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. (7-1-93)

21. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, and disclosure of reasonably anticipated fees relative to the treatment proposed. (3-18-99)

22. Sexual Misconduct. Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (7-1-93)

23. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (7-1-93)

24. American Dental Association Compliance. Failure by a dentist to comply with the American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), as incorporated by reference in this chapter. (3-20-04)

25. American Dental Hygienists' Association Compliance. Failure by a dental hygienist to comply with the American Dental Hygienists' Association, Code of Ethics for Dental Hygienists (ADHA Code), as incorporated by reference in this chapter. (4-6-05)

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 54-1404, 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 6, 2006 Idaho Administrative Bulletin, Vol. 06-9, pages 114 through 145.

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 Sandra Evans, Executive Director, (208) 334-3110.

DATED this 28th day of September 2006.

THIS 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 54-1404, 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 20, 2006.

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:

These rule changes update and clarify Board rules to assist with licensing and enforcement functions. The proposed rules clarify definitions and elaborate on various licensing procedures; they add failure to cooperate with authorities and engaging in a pattern of poor practice as grounds for discipline; revise the limited license provisions to spell out the categories and requirements and explain the summary suspension provisions; set forth a description of the peer review process required of the advanced practice nurses; establish titles for graduate APPNs; relocate, without change in amount, an existing records verification fee; and include some general updating and housekeeping provisions.

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 because of the relatively simple nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sandra Evans, Executive Director, (208) 334-3110.

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 27, 2006.

DATED this 8th day of August, 2006.

Sandra Evans, MAEd., R.N.
Executive Director
Idaho Board of Nursing
280 N. 8th St., Ste. 210
P. O. Box 83720
Boise, Idaho 83720-0061
Phone: (208) 334-3110; Fax: (208) 334-3262

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Section 54-1404(~~9~~10), Idaho Code. ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. WRITTEN INTERPRETATIONS.
In accordance with Sections 54-1401 through 54-141~~7~~8, Idaho Code, this Board has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Board office. ~~(3-30-01)~~(____)

004. ADMINISTRATIVE APPEALS
The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure," Section 100, et seq., shall apply in addition to Board of Nursing Rules, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing~~,~~." ~~*Sections 090 through 164.*~~ ~~(7-1-93)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

~~34~~01. ~~*Wrongful*~~ Abandonment. The termination of a nurse/patient relationship without first making appropriate arrangements for continuation of required nursing care~~ *by others*~~. The nurse/patient relationship begins when responsibility for nursing care of a patient is accepted by the nurse. Refusal to accept an employment assignment or refusal to accept or begin a nurse/patient relationship is not ~~*wrongful*~~ abandonment. Reasonable notification, or a timely request for alternative care for a patient, directed to an attending physician or to a staff supervisor, prior to leaving the assignment, ~~*is sufficient to permit*~~ constitutes termination of the nurse/patient relationship. ~~(5-3-03)~~(____)

0~~1~~2. Accreditation. The official authorization or status granted by a recognized accrediting entity or agency other than a state board of nursing. (7-1-93)

0~~2~~3. Administration of Medications. The process whereby a prescribed medication is given to a patient by one (1) of several routes. Administration of medication is a complex nursing responsibility which requires a knowledge of anatomy, physiology, pathophysiology and pharmacology. Licensed nurses may administer medications and treatments as prescribed by health care providers authorized to prescribe medications. (5-3-03)

0~~3~~4. Approval. The process by which the Board evaluates and grants official recognition to education programs that meet standards established by the Board. (5-3-03)

0~~4~~5. Assist. To aid or help in the accomplishment of a prescribed set of actions. (7-1-93)

0~~5~~6. Assistance With Medications. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a patient who cannot independently self-administer medications. (5-3-03)

0~~6~~7. Board. The Idaho Board of Nursing. (7-1-93)

0~~7~~8. Board Staff. The Executive Director and other such personnel as are needed to implement the Nursing Practice Act and these Rules. (7-1-93)

0~~8~~9. Charge Nurse. A licensed nurse who bears primary responsibility for assessing, planning, prioritizing and evaluating care for the patients on a unit, as well as the overall supervision of the licensed and unlicensed staff delivering the nursing care. (5-3-03)

~~09~~10. Clinical Preceptor. A licensed professional nurse who acts to facilitate student training in a manner prescribed by a written agreement between the preceptor's employer and an educational institution. (5-3-03)

1~~0~~1. Competence. Safely performing those functions within the role of the licensee in a manner that demonstrates essential knowledge, judgment and skills. (5-3-03)

1~~1~~2. Curriculum. The systematic arrangement of learning experiences including didactic courses, practical experiences, and other activities needed to meet the requirements of the nursing program and of the certificate or degree conferred by the parent institution. (5-3-03)

1~~2~~3. Delegation. The process by which a licensed nurse assigns tasks to be performed by others. (5-3-03)

1~~3~~4. Disability. Any physical, mental, or emotional condition that interferes with the nurse's ability to practice nursing safely and competently. (5-3-03)

1~~4~~5. Emeritus License. A license issued to a nurse who desires to retire from active practice for any length of time. (5-3-03)

1~~5~~6. Licensing Examination. A licensing examination that is acceptable to the board. (5-3-03)

1~~6~~7. License in Good Standing. A license not subject to current disciplinary action, restriction, probation or investigation in any jurisdiction. (5-3-03)

1~~7~~8. Limited License. A nursing license subject to specific restrictions, terms, and conditions. (5-3-03)

1~~8~~9. Nursing Assessment. The systematic collection of data related to the patient's health care needs. (5-3-03)

~~19~~20. **Nursing Diagnosis**. The clinical judgment or conclusion regarding patient/client/ family/ community response to actual or potential health problems made as a result of the nursing assessment. (7-1-93)

2~~0~~1. **Nursing Intervention**. An action deliberately selected and performed to support the plan of care. (5-3-03)

2~~1~~2. **Nursing Service Administrator**. A licensed professional nurse who has administrative responsibility for the nursing services provided in a health care setting. (7-1-93)

2~~2~~3. **Organized Program of Study**. A written plan of instruction to include course objectives and content, teaching strategies, provisions for supervised clinical practice, evaluation methods, length and hours of course, and faculty qualifications. (7-1-93)

2~~3~~4. **Patient**. An individual or a group of individuals who are the beneficiaries of nursing services in any setting and may include client, resident, family, community. (5-3-03)

2~~4~~5. **Patient Education**. The act of teaching patients and their families, for the purpose of improving or maintaining an individual's health status. (5-3-03)

2~~5~~6. **Plan of Care**. The goal-oriented strategy developed to assist individuals or groups to achieve optimal health potential. (5-3-03)

2~~6~~7. **Practice Standards**. General guidelines that identify roles and responsibilities for a particular category of licensure and, used in conjunction with the decision-making model, define a nurse's relationship with other care providers. (5-3-03)

2~~7~~8. **Probation**. A period of time set forth in an order in which certain restrictions, conditions or limitations are imposed on a licensee. (5-3-03)

2~~8~~9. **Protocols**. Written standards that define or specify performance expectations, objectives, and criteria. (5-3-03)

~~29~~30. **Revocation**. Termination of the authorization to practice. (5-3-03)

3~~0~~1. **Scope of Practice**. The extent of treatment, activity, influence, or range of actions permitted or authorized for licensed nurses based on the nurse's education, preparation, and experience. (5-3-03)

3~~1~~2. **Supervision**. Designating or prescribing a course of action, or giving procedural guidance, direction, and periodic evaluation. Direct supervision requires the supervisor to be physically present and immediately accessible to designate or prescribe a course of action or to give procedural guidance, direction, and periodic evaluation. (4-6-05)

3~~2~~3. **Suspension**. An order temporarily withdrawing a nurse's right to practice nursing. (5-3-03)

34. **Technician/Technologist**. These individuals are not credentialed by regulatory bodies in Idaho and may include, but are not limited to: surgical, dialysis and radiology technicians/technologists, monitor technicians and medical assistants. (____)

3~~3~~5. **Universal Standards**. The recommendations published by the Center for Disease Control, Atlanta, Georgia, for preventing transmission of infectious disease, also referred to as "Standard Precautions." (5-3-03)

011. -- 039. (RESERVED).

040. TEMPORARY LICENSE.
A temporary license is a nonrenewable license ~~*of limited duration*~~. ~~*(5-3-03)*~~(____)

01. Issued at Discretion of Board. Temporary licenses are issued, and may be extended, at the discretion of the Board. ~~*(6-1-78)*~~(____)

02. Temporary Licensure by Interstate Endorsement. ~~*A license issued by interstate endorsement is a license issued by the board of this state, based on the fact of licensure in another state.*~~ A temporary license may be issued to an applicant for interstate endorsement on proof of current licensure in good standing in another state, satisfactory documentation of employment within the three (3) years immediately preceding application, and compliance with the requirements of Section 242 of these rules. ~~*(5-3-03)*~~(____)

03. Temporary Licensure by Examination. A temporary license to practice nursing until notification of examination results and completion of criminal background check may be issued to an applicant for Idaho licensure following graduation from a nursing education program recognized by the professional licensing board for nursing of any state or territory of the United States, and compliance with Section 221 of these rules. ~~*(5-3-03)*~~(____)

a. The practice of nursing by new graduates holding temporary licensure shall be limited as follows: (3-30-01)

i. Direct supervision by a licensed professional nurse must be provided. (3-30-01)

ii. May not act as charge nurse. (5-3-03)

b. ~~*Terms of*~~ Temporary licenses issued to examination candidates ~~*are as follows:*~~ will be issued for a period not to exceed three (3) months. ~~*(3-30-01)*~~(____)

~~*i. Temporary licenses will be issued for a period of no more than three (3) months; and*~~ ~~*(5-3-03)*~~

~~*ii. Temporary licenses are not renewable.*~~ ~~*(3-30-01)*~~

04. Unsuccessful Examination Candidates. (6-11-93)

a. An applicant who fails to pass the licensing examination shall not be eligible for further temporary licensure. (3-30-01)

b. In the event that such applicant subsequently passes the licensing examination after twelve (12) months or more have elapsed following completion of the educational program, a temporary license with conditions may be issued until verification of clinical competence is received. (3-30-01)

05. Applicants Not in Active Practice. A temporary license with specific terms and conditions may be issued to a person who has not actively engaged in the practice of nursing in any state for more than three (3) years immediately prior to the application for licensure or to an applicant whose completed application indicates the need for confirmation of the applicant's ability to practice safe nursing. (3-30-01)

06. Applicants from Other Countries. Upon final evaluation of the completed application, the Board may, at its discretion, issue a temporary license to a graduate from a nursing education program outside of the United States or its territories, pending notification of results of the licensing examination. (6-11-93)

07. Fee. The applicant must pay the temporary license fee, as prescribed in Subsection 901.07 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

061. ~~*LATE RENEWAL OR*~~ LICENSE REINSTATEMENT~~*OF A LICENSE*~~.

01. ~~*Reinstatement*~~ Within One Year~~*(Late Renewal)*~~. A person whose license has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement within one (1) year by: ~~*(3-30-01)*~~(____)

a. Filing a completed renewal application; and (3-30-01)

b. Payment of the verification of records fee and the renewal fee as prescribed in Subsection 900.05 of these rules. (4-2-03)

02. ~~*Reinstatement*~~ After One Year. After one (1) year, but less than three (3) years, a person whose license has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by: ~~*(3-30-01)*~~(____)

a. Filing a completed reinstatement application; and (3-30-01)

b. Payment of the ~~*verification of records*~~ fees ~~*and the renewal fee as*~~ prescribed in Subsection 900.0~~3~~5 of these rules; and ~~*(7-1-93)*~~(____)

c. Providing evidence satisfactory to the Board of the applicant's ability to practice safely and competently. (3-30-01)

d. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ( )

03. ~~***Reinstatement***~~ **After Three Years**. After three (3) years, a person whose license has lapsed for failure to timely pay the renewal fee may apply for reinstatement by: ~~*(3-30-01)*~~( )

a. Filing a completed reinstatement application; and ~~*(3-30-01)*~~( )

b. Payment of the ~~*verification of records*~~ fees ~~*and the renewal fee as*~~ prescribed in Subsection 900.05 of these rules; and ~~*(4-2-03)*~~( )

c. Payment of the temporary license fee prescribed in Subsection 901.07 of these rules, if required; and (4-2-03)

d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently. ~~*(3-30-01)*~~( )

e. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ( )

04. ~~***Reinstatement***~~ **After Discipline**. A person whose license has been subject to disciplinary action by the board may apply for reinstatement of the license to active and unrestricted status by: ~~*(4-2-03)*~~( )

a. Submitting a completed application for reinstatement; and (4-2-03)

b. Payment of ~~*a verification of records*~~ the fees~~*; and renewal fee as*~~ prescribed in Subsection 900.05 of these rules; and ~~*(4-2-03)*~~( )

c. Documenting compliance with any term and restrictions set forth in any order as a condition of reinstatement; and ~~*(4-2-03)*~~( )

d. Provid~~*e*~~ing ~~*proof*~~ evidence, satisfactory to the board, of the applicant's ~~*competency*~~ ability to practice safely and competently. ~~*(4-2-03)*~~( )

e. A current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. ( )

f. A person whose license has been revoked may not apply for reinstatement until two (2) years following the order of revocation. ( )

05. **Reinstatement of Emeritus License to Current Status**. A person who holds a current emeritus license in good standing may apply for reinstatement of the license to active and unrestricted status by: (4-2-03)

a. Submitting a completed application for reinstatement; and (4-2-03)

b. Payment of the ~~*verification of records*~~ fees ~~*and renewal fee as*~~ prescribed in Subsection 900.05 of these rules; and ~~*(4-2-03)*~~(____)

c. Providing ~~*proof*~~ evidence, satisfactory to the board, of the applicant's current competency to practice. ~~*(4-2-03)*~~(____)

062. -- 075. (RESERVED).

076. PERSONS EXEMPTED BY BOARD.
Licensure to practice nursing shall not be required, nor shall the practice of nursing be prohibited for persons exempted by the Board including: (11-28-84)

01. Technicians and Technologists. Technicians and technologists who ~~*are enrolled in Board-recognized programs of training or who are registered or certified by Board-recognized appropriate national bodies and are employed in state licensed or certified health care facilities, performing within the ordinary and customary roles in their field*~~ comply with Section 491 of these rules. ~~*(6-1-78)*~~(____)

02. Non-Resident Nurses. Non-resident nurses currently licensed in good standing in another state or territory, who are in Idaho on a temporary basis because of enrollment in or presentation of a short term course of instruction recognized or approved by the Board and who are performing functions incident to formal instruction.
~~*(3-30-01)*~~(____)

03. Family Members and Others. (7-1-93)

a. Family members providing care to a person to whom they are related by blood, marriage, adoption, legal guardianship or licensed foster care. (5-21-89)

b. Non-family members who provide gratuitous care to a person on a temporary basis in order to give respite to family members who regularly provide care to that person. (5-21-89)

c. Live-in domestics, housekeepers and companions, provided they do not represent themselves as nor receive compensation as licensed nurses or other nursing care providers and so long as any health care provided is incidental to the services for which they are employed.
(3-30-01)

04. Nurse Apprentice. A nurse apprentice is a currently enrolled nursing student who is employed for remuneration in a non-licensed capacity by a Board approved health care agency.
(3-30-01)

a. Applicants for nurse apprentice shall: (3-30-01)

i. Be enrolled in an accredited/approved nursing education program that is substantially equivalent to Idaho's approved programs for practical/professional nursing.
(6-20-92)

ii. Be in good academic standing at the time of application and notify the Board of

any change in academic standing. (6-20-92)

iii. Meet the employing agency's health care skills validation requirements. (3-30-01)

iv. Satisfactorily complete a basic nursing fundamentals course. (3-30-01)

v. Use obvious designations that identify the applicant as a nurse apprentice. (3-30-01)

b. A completed application for nurse apprentice shall consist of: (3-30-01)

i. Completed application form provided by the Board, to include a fee of ten dollars ($10); and (7-1-93)

ii. Verification of satisfactory completion of a basic nursing fundamentals course; and (3-30-01)

iii. Validation of successful demonstration of skills from a nursing education program; and (3-30-01)

iv. Verification of on-going good academic standing in nursing education program. (3-30-01)

c. An individual whose application is approved shall be issued a letter identifying the individual as a nurse apprentice for a designated time period. (3-30-01)

d. A nurse apprentice may, under licensed professional nurse supervision, perform all functions approved by the Board of Nursing for unlicensed assistive personnel as set forth in ~~*Subsection 400.04*~~ Section 490 of these rules. ~~*(3-30-01)*~~(____)

05. Employer Application. (3-30-01)

a. A completed application for health care agencies wishing to employ nurse apprentices shall consist of: (3-30-01)

i. Completed application form provided by the Board; and (6-20-92)

ii. Job descriptions for apprentice; and (3-30-01)

iii. A written plan for orientation and skill validation; and (6-20-92)

iv. The name of the licensed professional nurse who shall be accountable and responsible for the coordination or management of the nurse apprentice program; and (3-30-01)

v. Assurance that a licensed professional nurse is readily available when nurse apprentice is working. (3-30-01)

vi. A written procedure for the nurse apprentice who is asked to perform a task that

could jeopardize a patient and who declines to perform the task; and (3-30-01)

vii. A fee of one hundred dollars ($100). (3-30-01)

b. Following application review, the Board may grant approval to a health care agency to employ nurse apprentice for a period of up to one (1) year. (3-30-01)

c. To insure continuing compliance with Board requirements, each approved agency shall submit an annual report to the Board on forms provided by the Board. Based on their findings, the Board may grant continuing approval annually for an additional one (1) year period. (6-20-92)

d. At any time, if the employing agency fails to inform the Board of changes in conditions upon which approval was based or otherwise fails to comply with established requirements, the Board may notify the agency of withdrawal of approval. (6-20-92)

077. MULTISTATE LICENSURE.

01. Definitions. In Section 077, the following terms have the meanings indicated. (3-15-02)

a. Board means the regulatory body responsible for issuing nurse licenses. (3-15-02)

b. Compact means the Nurse Multistate Licensing Compact. (3-15-02)

c. Coordinated Licensure Information System (CLIS) means an integrated process for collecting, storing, and sharing information on nurse licensing and enforcement activities related to nurse licensing laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards. (3-15-02)

d. Home state means the party state that is the nurse's primary state of residence. (3-15-02)

e. Party state means a state that is a signatory on the compact. (3-15-02)

f. Primary state of residence means the state of an individual's declared, fixed, and permanent residence. (3-15-02)

g. Public means an individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc. (3-15-02)

02. Examination. No applicant may be issued a compact license granting a multistate privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX (National Council Licensure Examination) examination: (4-6-05)

a. NCLEX-RN for professional nursing; or (4-6-05)

b. NCLEX-PN for practical nursing. (4-6-05)

03. Issuance of License in Compact Party State. (3-15-02)

a. A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. This evidence shall include a declaration signed by the licensee. Further evidence that may be requested includes, but is not limited to: (3-15-02)

i. Driver's license with a home address; (3-15-02)

ii. Voter registration card displaying a home address; or (3-15-02)

iii. Federal income tax return declaring the primary state of residence. (3-15-02)

b. A nurse changing primary state of residence, from one (1) party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days. (3-15-02)

c. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance, and the thirty (30) day period in Subsection 077.0~~2~~3.b. of these rules shall be stayed until resolution of the pending investigation. ~~(3-15-02)~~(____)

d. The former home state license is not valid upon the issuance of a new home state license. (3-15-02)

e. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days, and the former home state will take action in accordance with that state's laws and regulations. (3-15-02)

04. Multistate Licensure Privilege Limitations. (3-15-02)

a. Home state boards shall include, in all disciplinary orders or agreements that limit practice or require monitoring, the requirement that the licensee subject to the order or agreement shall limit the licensee's practice to the home state during pendancy of the disciplinary order or agreement. (3-15-02)

b. The requirement referred to in Subsection 077.0~~3~~4.a. of these rules may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and other party state boards. ~~(3-15-02)~~(____)

05. Information System. (3-15-02)

a. Levels of Access. (3-15-02)

i. Public access to nurse licensure information shall be limited to: (3-15-02)

(1) The licensee's name; (3-15-02)

(2) Jurisdictions of licensure; (3-15-02)

(3) Licensure expiration date; (3-15-02)

(4) Licensure classification and status; (3-15-02)

(5) Public emergency, summary, and final disciplinary actions, as defined by contributing state authority; and (3-15-02)

(6) The status of multistate licensure privileges. (3-15-02)

ii. Non-party state boards shall have access to all CLIS data except current significant investigative information and other information as limited by contributing party state authority. (3-15-02)

iii. Party state boards shall have access to all CLIS data contributed by the party states and other information as allowed by contributing non-party state authority. (3-15-02)

b. Right to Review. (3-15-02)

i. The licensee may request, in writing, to the home state board to review data relating to the licensee in the CLIS. (3-15-02)

ii. If a licensee asserts that any data relating to the licensee is inaccurate, the burden of proof is on the licensee to provide evidence substantiating that claim. (3-15-02)

iii. Within ten (10) business days, the Board shall correct information that it finds to be inaccurate in the CLIS. (3-15-02)

c. Changes in Disciplinary Data. (3-15-02)

i. Within ten (10) business days, the Board shall report to CLIS: (3-15-02)

(1) Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring unless the agreement or order relating to participation in alternative programs is required to remain nonpublic by the contributing state authority; (3-15-02)

(2) Dismissal of the complaint; and (3-15-02)

(3) Changes in status of disciplinary action, or licensure encumbrance. (3-15-02)

ii. The Board shall delete current significant investigative information from the CLIS within ten (10) business days after: (3-15-02)

(1) A disciplinary action; (3-15-02)

(2) An agreement or order requiring participation in alternative programs; (3-15-02)

(3) An agreement or agreements, which limit practice or require monitoring; or (3-15-02)

(4) Dismissal of a complaint. (3-15-02)

iii. The CLIS administrator shall make changes to licensure information in the CLIS within ten (10) business days upon notification by a board. (3-15-02)

078. -- 089. (RESERVED).

090. DENIAL OF LICENSE.

01. Grounds for Denial of License. (3-15-02)

a. Failure to meet any requirement or standard established by law or by rules adopted by the Board; or (3-15-02)

b. Failure to pass the licensing examination; or (3-15-02)

c. False representation of facts on an application for licensure; or (3-15-02)

d. Having another person appear in his place for the licensing examination; or (3-15-02)

e. Engaging in any conduct which would be grounds for discipline under Nursing Practice Act, Section 54-1413 (1), Idaho Code or Sections 100 or 101, of these rules. (3-15-02)

f. Revocation, suspension, limitation, reprimand, voluntary surrender or any other disciplinary action or proceeding, including investigation against a license, certificate or privilege to practice by another state or jurisdiction. (3-15-02)

02. Notification of Denial. The Board of Nursing shall give any applicant whose application for licensure is denied written notice containing a statement: (3-15-02)

a. That the applicant has failed to qualify to be examined or licensed; and (6-1-78)

b. A description of the reason(s) for denial; and (3-15-02)

c. Directing the applicant's attention to his rights under Proceedings, Section 54-1413(~~2~~3)(a), Idaho Code. ~~(3-15-02)~~(____)

a. Reapplication for a license previously denied must include evidence, satisfactory to the Board, of rehabilitation, or elimination or cure of the conditions for denial. (3-15-02)

b. Evaluation of reapplication for a license denied under Section 54-1413, Idaho Code, shall include consideration of at least the following factors: (3-15-02)

i. The nature and severity of the act or omission which resulted in the denial of license; and (7-1-93)

ii. The conduct of the applicant subsequent to the denial of license; and (7-1-93)

iii. The lapse of time since denial of license; and (7-1-93)

iv. Compliance with any conditions the Board may have stipulated as a prerequisite for reapplication; and (7-1-93)

v. The degree of rehabilitation attained by the applicant as evidenced by statements sent directly to the Board from qualified people who have professional knowledge of the applicant; and (7-1-93)

vi. Personal interview by the Board, at its discretion. (3-15-02)

c. Reapplication files will remain open and active for a period of twelve (12) months from date of receipt. After expiration of the twelve (12) months, the file will be closed and any subsequent reapplication will require submission of a new application form and payment of required fees. (3-15-02)

091. -- 099. (RESERVED).

100. GROUNDS FOR DISCIPLINE.

01. False Statement. A false, fraudulent or forged statement or misrepresentation in procuring a license to practice nursing shall mean, but need not be limited to: (6-1-78)

a. Procuring or attempting to procure a license to practice nursing by filing forged or altered documents or credentials; or (3-15-02)

b. Falsifying, misrepresenting facts or failing to verify and accurately report any and all facts submitted on any application for licensure, examination, relicensure, or reinstatement of licensure by making timely and appropriate inquiry of all jurisdictions in which licensee has made application for, or obtained, licensure or certification or engaged in the practice of nursing; or (3-15-02)

c. Impersonating any applicant or acting as proxy for the applicant in any examination for nurse licensure. (6-1-78)

02. Conviction of a Felony. Conviction of, or entry of a withheld judgment or a plea of nolo contendre to, conduct constituting a felony. (3-15-02)

03. False or Assumed Name. Practicing nursing under a false or assumed name shall mean, but need not be limited to, carrying out licensed nursing functions while using other than the individual's given or legal name. (3-15-02)

04. Offense Involving Moral Turpitude. An offense involving moral turpitude shall mean, but need not be limited to, an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. (6-1-78)

05. Gross Negligence or Recklessness. Gross negligence or recklessness in performing nursing functions shall mean, but need not be limited to, a substantial departure from established and customary standards of care which, under similar circumstances, would have been exercised by a licensed peer; an act or an omission where there is a legal duty to act or to refrain from acting that a reasonable and prudent practitioner of nursing under same or similar facts and circumstances would have done, would have refrained from doing or would have done in a different manner and which did or could have resulted in harm or injury to a patient/client. An exercise of so slight a degree of care as to justify the belief that there was a conscious or overt disregard or indifference for the health, safety, well-being, or welfare of the public shall be considered a substantial departure from the accepted standard of care. (6-1-78)

06. Habitual Use of Alcohol or Drugs. Habitual use of alcoholic beverages or narcotic, hypnotic, or hallucinogenic drugs shall mean, but need not be limited to, the use of such substances to the extent that the nurse's judgment, skills, or abilities to provide safe and competent nursing care are impaired; or that the individual is unable to care for himself or his property or his family members because of such use; or it is determined by a qualified person that the individual is in need of medical or psychiatric care, treatment or rehabilitation or counseling because of drug or alcohol use. (7-1-91)

07. Physical or Mental Unfitness. Physical or mental unfitness to practice nursing shall mean, but need not be limited to, a court order adjudging that a licensee is mentally incompetent, or an evaluation by a qualified professional person indicating that the licensee is mentally or physically incapable of engaging in professional or practical nursing in a manner consistent with sound patient care; or uncorrected physical defect that precludes the safe performance of nursing functions. (6-1-78)

08. Violations of Standards of Conduct. Violations of standards of conduct and practice adopted by the Board shall mean, but need not be limited to, any violation of those standards of conduct described in Section 101 of these rules. (3-15-02)

09. Conduct to Deceive, Defraud or Endanger. Conduct of a character likely to deceive, defraud, or endanger patients or the public shall include, but need not be limited to: (3-15-02)

a. Violating the standards of conduct and practice adopted by the Board. (3-15-02)

b. Being convicted of any crime or act substantially related to nursing practice and including but not limited to sex crimes, drug violations, acts of violence and child or adult abuse. (3-15-02)

10. Action Against a License. Action against a license shall mean entry of any order restricting, limiting, revoking or suspending or otherwise disciplining a license or privilege to practice nursing by any jurisdiction. A certified copy of an order entered in any jurisdiction shall

be prima facie evidence of the matters contained therein. (3-15-02)

11. Failure to Make Timely and Appropriate Inquiry. Failing to make timely and appropriate inquiry verifying licensure status in all jurisdictions in which the applicant has ever applied for licensure, certification or privilege to practice, including those jurisdictions in which the applicant is currently or was ever licensed, or in which applicant has practiced, prior to filing any application, verification or other statement regarding licensure status with the Board. (3-15-02)

12. Failure to Cooperate With Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, failure to provide information on request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. (____)

13. Patterns of Poor Practice. Repeatedly engaging in conduct that departs from the customary standards of care. (____)

101. STANDARDS OF CONDUCT.

01. Violations. Any violation of these Standards of Conduct shall be grounds for disciplinary action in accordance with Section 54-1413(1), Idaho Code, of the Idaho Nursing Practice Act and Section 090 or 100, of the Rules of the Board of Nursing. ~~*Actions based on the violation of any standard of conduct may include, but are not limited to, monitoring, issuance of letters of concern, caution or reprimand, and suspension or revocation of license.*~~ ~~*(3-15-02)*~~(____)

02. Classification. For purposes of convenience only, the standards of conduct are grouped generally into one (1) of three (3) categories: license, practice, and professional responsibility. The fact that any particular standard is so classified in any particular category will not be relevant for any purpose other than ease of use. (3-15-02)

03. License. (3-15-02)

a. Period of Practice. The nurse shall practice professional or practical nursing in Idaho only with a current Idaho license or during the period of valid temporary licensure or as otherwise allowed by law. (3-15-02)

b. Aiding in Violation of Law. The nurse shall not aid, abet, or assist any other person to violate or circumvent laws or rules pertaining to the conduct and practice of nursing. (11-28-84)

c. Reporting Grossly Negligent or Reckless Practice. The nurse shall report to the Board of Nursing any licensed nurse who is grossly negligent or reckless in performing nursing functions or who otherwise violates the Nursing Practice Act or the Board of Nursing's Rules. (7-1-93)

d. Unlawful Use of License. The nurse shall not permit his license to be used by

another person for any purpose or permit unlicensed persons under his jurisdiction or supervision to indicate in any way that they are licensed to perform functions restricted to licensed persons. . (7-1-93)

e. Impairment of Ability. The nurse shall not practice nursing while the ability to practice is impaired by alcohol or drugs or physical, mental or emotional disability. (11-28-84)

04. Practice. (3-15-02)

a. Perform Acts. The nurse shall have knowledge of the statutes and rules governing nursing and shall function within the defined legal scope of nursing practice. The nurse shall not assume any duty or responsibility within the practice of nursing without adequate training or where competency has not been maintained. (3-15-02)

b. Delegating Activities to Others. The nurse shall delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities and shall not delegate to non-licensed persons functions that are to be performed only by licensed nurses, to the detriment of patient safety. (11-28-84)

c. Supervision. The nurse delegating functions shall supervise the persons to whom the functions have been assigned or delegated. (11-28-84)

d. Safeguarding Patient. The nurse shall act to safeguard the patient from the incompetent practice, verbal or physical abusive acts or illegal practice of any person. (7-1-93)

e. Prescription Drugs. The nurse shall not obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs. (11-28-84)

f. Leaving Assignment. The nurse shall not abandon patients in need of nursing care in a negligent or wanton manner. The nurse shall leave a nursing assignment only after properly reporting and notifying appropriate personnel and shall transfer responsibilities to appropriate personnel or care giver when continued care is required by the patient's condition. (7-1-91)

g. Respecting Patient's Privacy. The nurse shall respect the patient's privacy. (7-1-91)

h. Confidentiality. The nurse shall not disseminate information about the patient to individuals not entitled to such information except where such information is required by law or for the protection of the patient. (7-1-91)

i. Observe and Report. The nurse shall observe the condition and signs and symptoms of a patient, record the information, and report to appropriate persons any significant changes. (7-1-91)

j. Collaboration. The nurse shall function as a member of the health team and shall collaborate with other health team members as necessary to meet the patient's health needs. (7-1-91)

k. Universal Standards. The nurse shall adhere to universal standards and carry out principles of asepsis and infection control and shall not place the patient, the patient's family or the nurse's coworkers at risk for the transmission of infectious diseases. (3-15-02)

05. Professional Responsibility. (3-15-02)

a. Disclosing Contents of Licensing Examination. The nurse shall not disclose contents of any licensing examination, or solicit, accept, or compile information regarding the contents of any examination before, during, or after its administration. (11-28-84)

b. Considerations in Providing Care. In providing nursing care, the nurse shall respect and consider the individual's human dignity, health problems, personal attributes, national origin, and handicaps and shall not discriminate on the basis of age, sex, race, religion, economic or social status or sexual preferences in the rendering of nursing services. (11-28-84)

c. Responsibility and Accountability Assumed. The nurse shall be responsible and accountable for his nursing judgments, actions and competence. (7-1-93)

d. Witnessing Wastage of Controlled Substances Medication. Controlled substances may not be wasted without witnesses. The nurse shall not sign any record as a witness attesting to the wastage of controlled substance medications unless the wastage was personally witnessed. The nurse shall not solicit the signatures on any record of a person as a witness to the wastage of controlled substance when that person did not witness the wastage. The nurse shall solicit signatures of individuals who witnessed the wastage in a timely manner. ~~(3-15-02)~~(____)

e. Record-keeping. The nurse shall make or keep accurate, intelligible entries into records required by law, employment or customary practice of nursing, and shall not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into patients' records or employer or employee records. (11-28-84)

f. Diverting or Soliciting. The nurse shall respect the property of the patient and employer and shall not take or divert equipment, materials, property, or drugs without prior consent or authorization, nor shall the nurse solicit or borrow money, materials or property from patients. (3-15-02)

g. Exploit, Solicit, or Receive Fees. The nurse shall not exploit the patient or the patient's family for personal or financial gain or offer, give, solicit, or receive any fee or other consideration for the referral of a patient or client. (3-15-02)

h. Professionalism. The nurse must not abuse the patient's trust. The nurse shall respect the dignity of the profession and maintain appropriate professional boundaries with respect to patients, the patients' families, and the nurse's coworkers. The nurse will not engage in violent, threatening or abusive behavior towards patients, patients' families or the nurse's coworkers. The nurse must be aware of the potential imbalance of power in professional relationships with patients, based on their need for care, assistance, guidance, and support, and ensure that all aspects of that relationship focus exclusively upon the needs of the patient. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

132. LIMITED LICENSES.
Limited licenses may be issued to qualified individuals in four (4) categories: post-discipline, non-practicing status, restricted status, and impairment-related disability. Failure to comply with the terms and conditions of a limited license will be cause for ~~*immediate discipline, including*~~ summary suspension ~~*or revocation of licensure*~~. ~~*(3-15-02)*~~(____)

01. ~~***Reinstatement After***~~ **Following Disciplinary Action**. ~~*(3-15-02)*~~(____)

a. After evaluation of an application for licensure reinstatement, the Board may issue a limited license to a nurse whose license has been revoked. (3-15-02)

b. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. (3-15-02)

02. Non-Practicing Status. (3-15-02)

a. Individuals who are prevented from engaging in the active practice of nursing may be issued a limited license. (3-15-02)

b. The Board shall specify that the license being issued does not entitle the licensee to engage in the active practice of nursing. The non-practicing status shall be noted on the license. (3-15-02)

c. The non-practicing limitation may be removed by the Board following receipt and evaluation of evidence satisfactory to the Board confirming that the licensee's physical or mental health status no longer prevents the individual from engaging in the active practice of nursing. (3-15-02)

03. Restricted Status. (3-15-02)

a. Individuals whose disabilities restrict or inhibit their ability to provide a full range of nursing services may be issued a limited license. (3-15-02)

b. In order to determine the appropriate limitations, the Board may evaluate statements from qualified professional persons who have personal knowledge of the applicant or licensee. The Board may also evaluate job descriptions and statements from potential employers and consider input from the applicant for the limited license. (3-15-02)

c. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. The conditions may include, but are not limited to: (3-15-02)

i. Notifying the Board of changes in employment status. (3-15-02)

ii. Submission of regular reports by the employer or by such other entities or individuals as the Board may desire. (3-15-02)

iii. Meeting with Board representatives. (3-15-02)

iv. Specific parameters of practice, excluding the performance of specific nursing functions. (3-15-02)

d. The conditions of limited practice may be removed by the Board following receipt and evaluation of satisfactory evidence confirming that the health status of the licensee no longer restricts or inhibits the person's ability to provide a full range of nursing services. (3-15-02)

04. Disability Due to Alcohol or Drug Use or Emotional or Mental Impairment. (3-15-02)

a. Individuals disabled due to alcohol or drug use or to emotional or mental impairment may qualify for issuance of a limited license as an alternative to discipline. (3-15-02)

b. The executive director may issue a limited license for a period not to exceed five (5) years to an individual who voluntarily surrenders his license by reason of a disability relating to alcohol or drug use or relating to emotional or mental impairment and who: (3-15-02)

i. Holds a current ~~*Idaho*~~ license to practice in Idaho as a professional or practical nurse or is otherwise eligible and is in the process of applying for licensure; and ~~*(3-15-02)*~~(____)

ii. Abused drugs and/or alcohol or demonstrated mental disability such that ability to safely practice is/may be impaired; and (3-15-02)

iii. Sign a written statement admitting to all facts which may constitute grounds for disciplinary action or demonstrate impairment of the safe practice of nursing, and waiving the right to a hearing and all other rights to due process in a contested case under the Idaho Administrative Procedures Act and the Nursing Practice Act; and (3-15-02)

iv. Submit reliable evidence, satisfactory to the executive director, that he is competent to safely practice nursing. (3-15-02)

c. If required, the applicant shall satisfactorily complete a ~~*Board approved*~~ treatment program accepted by the Board. ~~*(3-15-02)*~~(____)

d. The applicant must agree to participation in the Board's monitoring program to include: (3-15-02)

i. Evaluation of disability; (5-21-89)

ii. Approval of treatment program regimen; (5-21-89)

iii. Monitoring of progress; (5-21-89)

iv. Determination of when return to the workplace will be allowed. (7-1-96)

e. Admission to the Program for Recovering Nurses and/or issuance of a limited license may be denied for any reason including, but not limited to the following: (3-15-02)

i. The applicant diverted controlled substances for other than self administration; or (3-15-02)

ii. The applicant creates too great a safety risk; or (3-15-02)

iii. The applicant has been terminated from this, or any other, alternative program for non-compliance. (3-15-02)

f. ~~*In the event an applicant is determined to be ineligible for a limited license, the executive director shall refer the applicant's surrendered license to the Board for action.*~~ Upon satisfactory compliance with all of the terms of the limited license, and provided that the licensee demonstrates that he is qualified and competent to practice nursing, the executive director shall reinstate the renewable nursing license voluntarily surrendered. ~~*(3-15-02)*~~(____)

~~**g**~~**05. Compliance Required**. Limited licensure shall be conditioned upon the individual's prompt and faithful compliance with the following: ~~*(3-15-02)*~~(____)

~~*i*~~**a.** Satisfactory progress in any required continuing treatment or rehabilitation program. (3-15-02)

~~*ii*~~**b.** Regular and prompt notification to the Board of changes in name and address of self or any employer. (7-1-96)

~~*iii*~~**c.** Obtaining of performance evaluations prepared by the employer to be submitted at specified intervals and at any time upon request. (7-1-96)

~~*iv*~~**d.** Continuing participation in, and compliance with all recommendations and requirements of, the approved treatment or rehabilitation program, and obtaining of reports of progress submitted by the person directing the treatment or rehabilitation program at specified intervals and at any time upon request. (7-1-96)

~~*v*~~**e.** Submission of written self-evaluations and personal progress reports at specified intervals and at any time upon request. (7-1-93)

~~*vi*~~**f.** Submission of reports of supervised random alcohol/drug screens at specified intervals and at any time upon request. Participant is responsible for reporting as directed, submitting a sufficient quantity of sample to be tested, and payment for the screening. (7-1-96)

~~*vii*~~**g.** Meeting with the Board's professional staff at any time upon request. (7-1-93)

~~*viii*~~**h.** Working only in approved practice settings. (7-1-96)

~~ix~~**i.** Authorization by licensee of the release of applicable records pertaining to assessment, diagnostic evaluation, treatment recommendations, treatment and progress, performance evaluations, counseling, random chemical screens, and after-care at periodic intervals as requested. (7-1-93)

~~x~~**j.** Obedience to all laws pertaining to nursing practice, all nursing standards, and all standards, policies and procedures of licensee's employer(s) relating to any of the admitted misconduct or facts as set out in the written statement signed by licensee, or relating to the providing of safe, competent or proper nursing service. (7-1-93)

~~xi~~**k.** Compliance with other specific terms and conditions as may be required by the executive director. (3-15-02)

06. Summary Suspension - Lack of Compliance. (____)

~~h~~**a.** Summary Suspension. Any failure to comply with the terms and conditions of a limited license ~~*issued based upon an admission of misconduct or facts evidencing impairment of the licensee's ability to safely practice nursing by reason of drug, alcohol or other disability,*~~ shall be deemed to be an immediate threat to the health, safety, and welfare of the public and the executive director shall, upon receiving evidence of any such failure, ~~*immediately withdraw*~~ summarily suspend the limited license~~ *and refer to the advisory committee for re-evaluation*~~. ~~*(3-15-02)*~~(____)

i. ~~*Termination*~~ Summary suspension of a limited license may occur if, during participation in the program, information is received which, after investigation, indicates the individual may have violated a provision of the law or Board Rules governing the practice of nursing. ~~*(3-15-02)*~~(____)

ii. Upon ~~*termination*~~ summary suspension of a limited license, the executive director shall provide prompt written notice to the licensee stating the reason for the ~~*termination*~~ suspension, setting forth the evidence relied upon and notifying the licensee of his right to a hearing upon request at the earliest possible date in accordance with Section 54-1413(~~2~~3)(a)~~ *and (b)*~~, Idaho Code. ~~*(3-15-02)*~~(____)

~~ii~~**b.** Right to Hearing. An individual whose limited license has been ~~*terminated*~~ summarily suspended by the executive director may request a hearing regarding the ~~*termination*~~ suspension by certified letter addressed to the Board. If the individual fails to ~~*so*~~ request a hearing within twenty (20) days after notice of ~~*termination*~~ suspension by the executive director, or ~~*if upon*~~ after hearing~~ *a determination is made that is unfavorable to him*~~, if one is requested, the Board shall enter ~~*its*~~ an order ~~*confirming termination*~~ affirming or rejecting summary suspension of the limited license and enter such further orders revoking, ~~*or*~~ suspending, or otherwise disciplining the ~~*surrendered*~~ nursing license as may be necessary. ~~*(3-15-02)*~~(____)

~~j~~**c.** Other Orders. The Board may, for good cause, stay any order of the executive director or may modify the terms and conditions of a limited license as deemed appropriate to regulate, monitor or supervise the practice of any licensee. ~~*(3-15-02)*~~(____)

~~*k. Upon satisfactory compliance with all of the terms of the limited license, and*~~

~~provided that the licensee demonstrates that he is qualified and competent to practice nursing, the executive director shall reinstate the renewable nursing license voluntarily surrendered.~~ ~~(3-15-02)~~

(BREAK IN CONTINUITY OF SECTIONS)

135. -- 1~~49~~64. (RESERVED).

~~**150. PLACE OF HEARING.**~~
~~Hearings shall be held at the Idaho State Board of Nursing offices, Boise, Idaho or such other place as the Board shall designate.~~ ~~(7-1-93)~~

~~**151. BOARD ACTION ON HEARING.**~~

~~**01. Evidence Presented**. Based upon evidence presented at the hearing, the Board may:~~ ~~(7-1-93)~~

~~**a.** Dismiss the complaint.~~ ~~(11-28-84)~~

~~**b.** Reprimand the licensee.~~ ~~(11-28-84)~~

~~**c.** Deny licensure.~~ ~~(11-28-84)~~

~~**d.** Deny renewal or reinstatement of a license.~~ ~~(11-28-84)~~

~~**e.** Suspend the license.~~ ~~(11-28-84)~~

~~**f.** Revoke the license.~~ ~~(11-28-84)~~

~~**g.** Enter an order of suspension or revocation but stay the order subject to probation for a designated period.~~ ~~(11-28-84)~~

~~**h.** Limit or restrict the license.~~ ~~(7-1-93)~~

~~**i.** Such other action as may be deemed appropriate.~~ ~~(7-1-93)~~

~~**152. -- 163. (RESERVED).**~~

~~**164. PROBATION.**~~

~~**01. Stay of Suspension or Revocation Order**. An order for suspension or revocation may be stayed for a designated period to be fixed by the Board. The Board shall determine such terms and conditions as deemed appropriate to regulate, monitor or supervise the practice of the licensee during the probation.~~ ~~(7-1-93)~~

~~***02. Board Decision**. Prior to expiration of the probation period, the Board may review and evaluate the licensee's file and reports and may take action to reinstate the license. At any time that the terms or conditions of probation are violated or that progress and performance are unsatisfactory, the Board may summarily take action to extend the period of probation or to invoke the order of suspension or revocation. (11-28-84)*~~

165. PETITION FOR REHEARING OR RECONSIDERATION.

01. Petition for Rehearing or Reconsideration. An individual may petition for reconsideration of any final order or rehearing based upon the following grounds: (7-1-93)

a. Newly discovered or newly available evidence relevant to the issue; (11-28-84)

b. Error in the proceeding or Board decision that would be grounds for reversal or judicial review of the order; (11-28-84)

c. Need for further consideration of the issues and the evidence in the public interest; or (11-28-84)

d. A showing that issues not considered ought to be examined in order to properly dispose of the matter. (11-28-84)

02. ~~***Action on Petition***~~ **Administrative Procedure**. ~~*The Board may deny the petition, order a rehearing or direct such other proceedings as deemed appropriate.*~~ The Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, shall govern proceedings on petitions for reconsideration. ~~*(11-28-84)*~~(____)

~~***03. Limitation of Hearing**. The hearing shall be confined to those grounds upon which reconsideration or rehearing was ordered. (11-28-84)*~~

~~***04. Board Action**. Based upon evidence submitted for rehearing or reconsideration, the Board may reaffirm, stay, withdraw, reverse, modify or amend the prior order. (11-28-84)*~~

(BREAK IN CONTINUITY OF SECTIONS)

222. EXAMINATION AND RE-EXAMINATION.

01. Applicants for Professional or Practical Nurse Licensure. Applicants must successfully take the National Council Licensure Examination (NCLEX) for professional nurse licensure or for practical nurse licensure, as applied for and approved. ~~*(6-11-93)*~~(____)

02. Passing Score. The passing ~~*score for each examination series or form*~~ standard will be ~~*determined*~~ that established by the ~~*Board*~~ examining entity. ~~*(6-1-78)*~~(____)

03. Retaking Examination. Candidates who do not pass an examination will be

notified of the procedure for applying to retake. (6-11-93)

04. Equivalent Exams. In lieu of the NCLEX, the Board may accept documentation that the applicant has taken and successfully passed the State Board Test Pool examination.(____)

223. -- 239. (RESERVED).

240. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT.
An applicant for Idaho licensure by interstate endorsement must: (7-1-93)

01. Graduation Required. Be a graduate of a state approved/accredited practical or professional nursing education program that is substantially equivalent to Idaho's board-approved practical or professional nursing education program. Applicants for practical nurse licensure may also qualify under the provisions of Section 241 of these rules. (7-1-93)

02. Minimum Requirements. Have qualifications that are substantially equivalent to Idaho's minimum requirements; and (7-1-91)

03. Licensing Examination. Have taken the same licensing examination as that administered in Idaho and achieved scores established as passing for that examination by the Board, unless the applicant was licensed by examination prior to 1950; and (6-11-93)

04. Current Practice Experience. Have actively practiced nursing at least eighty (80) hours within the preceding three (3) years. (____)

0~~4~~5. License from Another State or Territory. Hold a license in good standing from another state or territory of the United States. The license of any applicant subject to official investigation or disciplinary proceedings shall not be considered in good standing. (7-1-91)

241. ~~PRACTICAL NURSE~~ LICENSURE BY EQUIVALENCY AND ENDORSEMENT LICENSURE.

01. Application by Equivalency. An applicant for practical nurse licensure by interstate endorsement based on equivalency must meet the following requirements: ~~(11-28-84)~~(____)

~~01~~a. Licensing Examination. Have successfully taken the same licensing examination as that administered in Idaho; and (7-1-93)

~~02~~b. License from Another State or Territory. Hold a license in another state or territory based on successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course(s) in personal and vocational relationships of the practical nurse (or equivalent experience) and additional courses equivalent to those same courses included in a practical nursing program approved by the board, and provide evidence thereof. ~~(7-1-93)~~(____)

02. Applicants Licensed in Another State or Territory. Graduates of schools of nursing located outside the United States or its territories who are licensed in a state or territory

who meet the requirements of Subsections 240.02 through 240.05 of these rules may be processed as applicants for licensure by endorsement from another state. (____)

24203. **Application for Licensure by Endorsement**. A completed application for licensure by interstate endorsement must include all of the following: (7-1-93)

01a. Application Form. Completed, notarized application form provided by the Board; and (6-1-78)

02b. Verification. Verification and documentation of licensure status from state of applicant's original licensure; and (3-15-02)

03c. Employment Reference. One (1) satisfactory nursing employment reference from the three (3) year period immediately preceding the application; and (3-15-02)

04d. Census Questionnaire. Completed Census Questionnaire; and (6-1-78)

05e. Fee. Payment of all required fees. (3-15-02)

06f. Criminal Background Check. A current fingerprint based criminal history check as set forth in Section 54-1401(3), Idaho Code. (4-6-05)

24*3*2. -- 259. (RESERVED).

260. QUALIFICATIONS FOR LICENSURE OF GRADUATES OF SCHOOLS OF NURSING LOCATED OUTSIDE THE UNITED STATES OR ITS TERRITORIES.
A graduate from a nursing education program outside of the United States or its territories must: (3-30-01)

01. *Examination* **Qualifications**. *Pass examination(s), approved by the Board, which* Demonstrate nursing knowledge and written and spoken English proficiency. *(4-6-05)*(____)

02. Education Credentials. Have education qualifications that are substantially equivalent to Idaho's minimum requirements at the time of application. (3-30-01)

03. License. Hold a license or other indication of authorization to practice in good standing, issued by a government entity or agency from a country outside the United States or its territories. *(3-30-01)*(____)

04. Examination/Re-Examination. Take and achieve a passing score on the licensing examination required in Subsection 26*3*22.01 *and achieve the score determined as passing for that examination by the Board* of these rules. *(3-30-01)*(____)

05. Applicants Licensed in Another State or Territory*. Graduates of schools of nursing located outside the United States or its territories who are licensed in a state or territory who meet the requirements of Section 240 may be processed as applicants for licensure by endorsement from another state.* *(3-30-01)*

(BREAK IN CONTINUITY OF SECTIONS)

~~262. (RESERVED).~~

~~263. EXAMINATION AND RE-EXAMINATION OF GRADUATES OF FOREIGN SCHOOLS OF NURSING.~~

~~01. Applicants for Professional Nurse or Practical Nurse Licensure. Applicants must successfully take the approved examination for professional nurse licensure or for practical nurse licensure, as applied for and approved. (6-11-93)~~

~~02. Examination Written Previously. Graduates of schools of nursing located outside the United States or its territories, who have successfully taken the State Board Test Pool Examination or the National Council Licensure Examination, may be processed as applicants for licensure by endorsement from another state in the United States. (3-30-01)~~

26~~4~~2. -- 270. (RESERVED).

271. DEFINITIONS RELATED TO ADVANCED PRACTICE PROFESSIONAL NURSING.

01. Accountability. Means being answerable for one's own actions. (7-1-99)

02. Advanced Practice Professional Nurse. Means a professional nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a post-basic program of study as defined herein and is authorized to perform advanced nursing practice, which may include acts of diagnosis and treatment, and the prescribing, administering and dispensing of therapeutic pharmacologic and non-pharmacologic agents, as defined herein. Advanced practice professional nurses shall include certified nurse-midwives, clinical nurse specialists, nurse practitioners, and registered nurse anesthetists. Advanced practice professional nurses, when functioning within the recognized scope of practice, assume primary responsibility for the care of their patients. This practice incorporates the use of professional judgment in the assessment and management of wellness and conditions appropriate to the advanced practice professional nurse's area of specialization. (7-1-99)

03. Authorized Advanced Practice Professional Nurse. Means an advanced practice professional nurse authorized by the board to prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to Section 315. (7-1-99)

04. Certification. Means recognition of the applicant's advanced knowledge, skills and abilities in a defined area of nursing practice by a national organization recognized by the board. The certification process measures the theoretical and clinical content denoted in the advanced scope of practice, and is developed in accordance with generally accepted standards of validation and reliability. (7-1-99)

05. Certified Nurse-Midwife. Means a licensed professional nurse who has graduated from a nationally accredited nurse-midwifery program, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a nurse-midwife from a national organization recognized by the board. (7-1-99)

06. Clinical Nurse Specialist. Means a licensed professional nurse who has graduated from a nationally accredited graduate program in nursing with a clinical focus, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a clinical nurse specialist from a national organization recognized by the board. (7-1-99)

07. Collaboration. Means the cooperative working relationship with another health care provider, each contributing his respective expertise in the provision of patient care, and such collaborative practice includes the discussion of patient treatment and cooperation in the management and delivery of health care. (7-1-99)

08. Consultation. Means conferring with another health care provider for the purpose of obtaining information or advice. (7-1-99)

09. Diagnosis. Means identification of actual or potential health problems and the need for intervention based on analysis of data collected. Diagnosis depends upon the synthesis of information obtained during the interview, physical exam, or diagnostic tests. (7-1-99)

10. Intervention. Means measures to promote health, protect against disease, treat illness in its earliest stages, manage acute and chronic illness, and treat disability. Interventions may include, but are not limited to ordering diagnostic studies, performing direct nursing care, prescribing pharmacologic or non-pharmacologic or other therapies and consultation with or referral to other health care providers. (7-1-99)

11. Nurse Practitioner. Means a licensed professional nurse who has graduated from a nationally accredited nurse practitioner program, passed a qualifying examination recognized by the board, and has current initial certification or current recertification as a nurse practitioner from a national organization recognized by the board. (7-1-99)

12. Peer Review Process. The systematic process by which one assesses, monitors, and makes judgments about the quality of care provided to patients by other peers measured against established practice standards. Peer review: ( )

a. Measures on-going practice competency of the advance practice professional nurse (APPN); ( )

b. Is performed by a licensed APPN, Physician, PA, or other professional certified by a recognized credentialing organization; and ( )

c. Focuses on a mutual desire for quality of care and professional growth incorporating attitudes of mutual trust and motivation. ( )

1~~2~~3. Prescriptive and Dispensing Authorization. Means the legal permission to

prescribe, deliver, distribute and dispense pharmacologic and non-pharmacologic agents to a client in compliance with board rules and applicable federal and state laws. Pharmacologic agents include legend and Schedule II through V controlled substances. (7-1-99)

1~~3~~4. **Referral**. Means directing a client to a physician or other health professional or resource. (7-1-99)

1~~4~~5. **Registered Nurse Anesthetist**. Means a licensed professional nurse who has graduated from a nationally accredited nurse anesthesia program, passed a qualifying examination recognized by the board and has current initial certification or current recertification as a nurse anesthetist from a national organization recognized by the board. (7-1-99)

1~~5~~6. **Scope of Practice of Advanced Practice Professional Nurse**. Means those activities that the advanced practice professional nurse may perform. Those activities shall be defined by the board according to the advanced practice professional nurse's education, preparation, experience and the parameters set forth by the advanced practice professional nurse's recognized, national certifying organization. (7-1-99)

1~~6~~7. **Specialization**. Means focusing the advanced practice professional nurse's clinical area of practice, including but not limited to, family health, mental health, child health, gerontological health, adult health or other. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

290. APPLICATION FOR LICENSURE -- ADVANCED PRACTICE PROFESSIONAL NURSE.
The advanced practice professional nurse requesting licensure to practice as a certified nurse-midwife, clinical nurse specialist, nurse practitioner or registered nurse anesthetist must submit an application to the board which includes: (7-1-99)

01. **Application Form**. Completed, notarized application form provided by the board. (7-1-99)

02. **Official Transcript**. Official transcript from the advanced practice nursing education program verifying successful completion. (7-1-99)

03. **National Certification**. Verification of current national certification from the board-recognized certifying agent; and (7-1-99)

04. **Enrollment in Continuing Competency Assessment Program**. In addition to verification of national certification, a certified nurse-midwife must submit proof of enrollment in the continuing competency assessment program of the American College of Nurse-Midwives which bears a current expiration date. At the end of five (5) years, the certified nurse-midwife must submit evidence of completion of the continuing competency requirement of the program. (7-1-99)

05. Fee. ~~*A non-refundable*~~ The fee ~~*of ninety dollars ($90)*~~ prescribed in Subsection 901.02 of these rules. ~~*(7-1-99)*~~( )

06. Criminal Background Check. A current fingerprint based criminal history check as set forth in Section 54-1401(3), Idaho Code. (4-6-05)

291. -- 294. (RESERVED).

295. TEMPORARY LICENSURE -- ADVANCED PRACTICE PROFESSIONAL NURSE.
A temporary license to engage in advanced practice professional nursing as a certified nurse-midwife, clinical nurse specialist, nurse practitioner, or registered nurse anesthetist may be issued to the following: (7-1-99)

01. Applicants Awaiting Initial Certification Examination Results. An otherwise qualified applicant who is eligible to take the first available certification examination following completion of an approved advanced practice professional nurse education program. Verification of registration to write a board-recognized national certification examination must be received from the national certifying organization. (7-1-99)

a. Temporary licensure to practice shall be deemed to expire upon failure of the certification examination. An applicant who fails the national certification exam shall not engage in advanced practice professional nursing until such time as all requirements are met. (7-1-99)

b. An applicant who is granted a temporary license to practice as an advanced practice professional nurse must submit notarized results of the certification examination within ten (10) days of receipt. Failure to submit required documentation shall result in the immediate expiration of the temporary license. (7-1-99)

c. The temporary license of an applicant who does not write the examination on the date scheduled shall immediately expire and the applicant shall not engage in advanced practice professional nursing until such time as all requirements are met. (7-1-99)

02. Applicants Whose Certification Has Lapsed. A licensed professional nurse applying for re-entry into advanced professional nursing practice, who is required by the national certifying organization to meet certain specified practice requirements under supervision. The length of and conditions for temporary licensure shall be determined by the board. (7-1-99)

03. Applicants Holding a Temporary Professional Nursing License. An advanced practice professional nurse currently authorized to practice advanced practice professional nursing in another state upon issuance of a temporary license to practice as a professional nurse, and upon evidence of current initial certification or recertification as an advanced practice professional nurse from a board-recognized national certifying organization. (7-1-99)

04. Applicants Without Required Practice Hours. An advanced practice professional nurse who has not practiced the minimum required period of time during the renewal period may be issued a temporary license in order to acquire the required number of hours and

demonstrate ability to safely practice. (7-1-99)

05. **Application Processing**. An APPN whose application has been received but is not yet complete may be issued a temporary license. (____)

0~~5~~6. ***~~Expiration~~*** **Term of Temporary License**. ~~*The*~~ A temporary license expires ~~*when the*~~ at the conclusion of the term for which it is issued, or the issuance of a renewable ~~*advanced practice professional nurse*~~ license ~~*is granted*~~, whichever occurs earlier. ~~*(7-1-99)*~~(____)

296. -- 299. (RESERVED).

300. RENEWAL AND REINSTATEMENT OF ADVANCED PRACTICE PROFESSIONAL NURSE LICENSE.
The advanced practice professional nurse license may be renewed every two (2) years as prescribed in the Section 54-1411, Idaho Code, provided that the advanced practice professional nurse: (7-1-99)

01. **Current Professional License**. Maintains a current professional nurse license, or privilege, to practice in Idaho. (3-15-02)

02. **Evidence of Certification**. Submits evidence of current certification by a national organization recognized by the Board; and (7-1-99)

03. **Evidence of Continuing Education**. Provides documentation of thirty (30) contact hours of continuing education during the renewal period. Continuing education completed may be that required for renewal of national certification if documentation is submitted confirming the certifying organization's requirement is for at least thirty (30) contact hours. These contact hours may include the requirements identified in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 315.02.b. in a two (2) year period. (7-1-99)

04. **Hours of Practice**. Attests, on forms provided by the board, to a minimum of two hundred (200) hours of advanced professional nursing practice within the preceding two (2) year period. (7-1-99)

05. **Fee**. ~~*Remits a non-refundable renewal*~~ Pays the fee ~~*of fifty dollars ($50)*~~ prescribed in Subsection 900.05 of these rules. ~~*(7-1-99)*~~(____)

06. **Criminal Background Check**. Submits a current fingerprint based criminal history check as set forth in Section 54-1401(3), Idaho Code. (4-6-05)

07. **Peer Review Process**. Provides evidence, satisfactory to the board, of completion of a peer review process acceptable to the board. Applies to: (4-6-05)

a. CNM, Certified Nurse Midwife; (4-6-05)

b. CNS, Clinical Nurse Specialist; and (4-6-05)

c. NP, Nurse Practitioner. (4-6-05)

08. Exemption From Requirements. Nurse practitioners not certified by a national organization recognized by the board and approved prior to July 1, 1998 shall be exempt from the requirement set forth in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 300.02. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

~~***306. DISCIPLINARY ENFORCEMENT.***~~
~~*The board may revoke, suspend or otherwise discipline the advanced practice professional nurse license of a licensee who fails to comply with current recognized scope and standards of practice, who fails to maintain national certification or competency requirements, or who violates the provisions of the Nursing Practice Act or rules of the board.* (7-1-99)~~

~~***307. -- 309. (RESERVED).***~~

Section 310 is being renumbered to Subsection 390.02

3~~11~~07. -- 314. (RESERVED).

315. PRESCRIPTIVE AND DISPENSING AUTHORIZATION FOR ADVANCED PRACTICE PROFESSIONAL NURSES.

01. Initial Authorization. An application for the authority to prescribe and dispense pharmacologic and non-pharmacologic agents may be made as part of initial licensure application or by separate application at a later date. (7-1-99)

a. An advanced practice professional nurse who applies for authorization to prescribe pharmacologic and non-pharmacologic agents within the scope of practice for the advanced practice category, shall: (7-1-99)

i. Be currently licensed as an advanced practice professional nurse in Idaho; and (7-1-99)

ii. Provide evidence of completion of thirty (30) contact hours of post-basic education in pharmacotherapeutics obtained as part of study within a formal educational program or continuing education program, which are related to the applicant's advanced practice category scope of practice and include: (7-1-99)

(1) Pharmacokinetic principles and their clinical application; (7-1-99)

(2) The use of pharmacologic agents in the prevention of illness, restoration, and maintenance of health; (7-1-99)

(3) Federal and state laws relating to the purchasing, possessing, prescribing,

administering, and disposing of pharmacologic and nonpharmacologic agents; (7-1-99)

(4) Prescription writing; (7-1-99)

(5) Drug selection, dosage and route of administration; and (7-1-99)

(6) Drug interactions. (7-1-99)

iii. Submit a completed, notarized application form provided by the board; and (7-1-99)

iv. Remit ~~*a non-refundable*~~ fees ~~*of fifty dollars ($50)*~~ prescribed in Subsection 901.05 of these rules. ~~*(7-1-99)*~~( )

b. Exceptions to the pharmacotherapeutic education may be approved by the board. (7-1-99)

c. Prescriptions written by authorized advanced practice professional nurses shall comply with all applicable state and federal laws and be signed by the prescriber with the abbreviation for the applicable category of advanced nursing practice, the identification number assigned by the board and where applicable, the Idaho controlled substance registration number and the federal Drug Enforcement Agency registration number. (7-1-99)

d. Advanced practice professional nurse authorization shall expire and may be renewed at the same time as the advanced practice professional nurse license. (7-1-99)

02. Authorization Renewal. Authorization may be renewed provided the applicant: (7-1-99)

a. Maintains a valid advanced practice professional nurse license; (7-1-99)

b. Has completed ten (10) contact hours of approved pharmacology-related continuing education in the twenty-four (24) months immediately preceding application for renewal; and (7-1-99)

c. Has not engaged in any act or omission in the exercise of prescriptive authority which demonstrates a threat to the public. (7-1-99)

03. Temporary Authorization. The board may grant temporary prescriptive authority to an applicant who holds a temporary advanced practice professional nurse license and who meets the requirements for initial authorization pursuant to IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 315.01. (7-1-99)

04. Expiration of Temporary Prescriptive Authorization. Temporary prescriptive authorization automatically expires on the expiration, revocation, suspension, placement on probation, or denial of any advanced practice professional nurse license. (7-1-99)

05. Dispensing Authorization. All authorized advanced practice professional nurses

may dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws, subject to the following conditions: (7-1-99)

a. Valid Advanced Practice Professional Nurse/Patient Relationships. An advanced practice professional nurse shall not dispense pharmacologic agents except in the course of his professional practice and when a bona fide advanced practice professional nurse/patient relationship has been established. A valid relationship will exist when the advanced practice professional nurse has obtained sufficient knowledge of the patient's medical condition through examination and has assumed responsibility for the health care of the patient. (7-1-99)

b. Restrictions on the Dispensing of Controlled Substances. Dispensing of Schedule II controlled substances shall be limited to emergency periods to be determined on the basis of individual circumstances. The emergency period will extend only until the Schedule II prescription can be filled from a pharmacy. (7-1-99)

06. Accountability. The advanced practice professional nurse when exercising prescriptive and dispensing authority is accountable for: (7-1-99)

a. Patient selection; (7-1-99)

b. Problem identification through appropriate assessment; (7-1-99)

c. Medication and device selection; (7-1-99)

d. Patient education for use of therapeutics; (7-1-99)

e. Knowledge of interactions of therapeutics; (7-1-99)

f. Evaluation of outcome; and (7-1-99)

g. Recognition and management of complications and untoward reactions. (7-1-99)

316. GROUNDS FOR DISCIPLINE OF AN ADVANCED PRACTICE PROFESSIONAL NURSE LICENSE.
In addition to the grounds set forth in Section 54-1413, Idaho Code and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," subject to Section 100, an advanced practice professional nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the board on the following grounds: ~~(7-1-99)~~(____)

01. Prescribing or Dispensing Controlled Substances. Prescribing, dispensing, or selling any drug classified as a controlled substance to a family member or to himself. (7-1-99)

02. Violating Governing Law. Violating any state or federal law relating to controlled substances. (7-1-99)

03. Outside Scope of Practice. Prescribing or dispensing outside the scope of the advanced practice professional nurse's practice. (7-1-99)

04. Other Than Therapeutic Purposes. Prescribing or dispensing for other than therapeutic purposes. (7-1-99)

05. Violation of Nursing Practice Act or Board Rules. Violating the provisions of the Nursing Practice Act or the rules of the board. (7-1-99)

317. ~~*WITHDRAWAL*~~ SUMMARY SUSPENSION OF ADVANCED PRACTICE PROFESSIONAL NURSE PRESCRIPTIVE AUTHORIZATION.
Failure to maintain active licensure as an advanced practice professional nurse shall result in the ~~*automatic withdrawal*~~ summary suspension of prescriptive authorization. ~~*(7-1-99)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

390. USE OF TITLES, ABBREVIATIONS, AND DESIGNATIONS FOR THE PRACTICE OF NURSING.

01. ~~*Temporary License*~~ Title for Graduates. ~~*The*~~ A new graduate issued a temporary license ~~*pending notification of examination results*~~ pursuant to Section 040 of these rules shall use the title graduate nurse, abbreviated G.N., or graduate practical nurse, abbreviated G.P.N., or graduate nurse midwife, abbreviated G.N.M., or graduate clinical nurse specialist, abbreviated G.C.N.S., or graduate nurse practitioner, abbreviated G.N.P., or graduate nurse anesthetist, abbreviated G.N.A., whichever is appropriate, until the renewable license is ~~*granted*~~ issued. ~~*(5-21-79)*~~(____)

~~***02. Temporary License for New Graduate**. A new graduate practicing on a temporary license must be provided direct supervision by a licensed professional nurse and may not assume charge responsibilities. (11-28-84)***~~

~~***03. Failure to Pass Examination**. If the new graduate fails to pass the licensing examination, licensed nursing functions may not be carried out and the individual must use the title aide, nursing assistant, etc., as appropriate for auxiliary workers in the employment setting. (5-21-79)***~~

~~*310*~~02. Titles. An individual who has successfully met all requirements for licensure as an advanced practice professional nurse shall have the right to use the title corresponding to the category of advanced nursing practice for which the individual is licensed. (7-1-99)

~~*01*~~a. Title of Certified Nurse-Midwife. Individuals who have successfully met all requirements for licensure as a certified nurse-midwife shall have the right to use the title certified nurse-midwife, abbreviated C.N.M. (7-1-99)

~~*02*~~b. Title of Clinical Nurse Specialist. Individuals who have successfully met all requirements for licensure as a clinical nurse specialist shall have the right to use the title clinical nurse specialist, abbreviated C.N.S. (7-1-99)

~~03~~**c.** Title of Nurse Practitioner. Individuals who have successfully met all requirements for licensure as a nurse practitioner shall have the right to use the title nurse practitioner, abbreviated N.P. (7-1-99)

~~04~~**d.** Title of Registered Nurse Anesthetist. Individuals who have successfully met all requirements for licensure as a registered nurse anesthetist shall have the right to use the title registered nurse anesthetist, abbreviated R.N.A. (7-1-99)

0~~4~~3. Registered Nurse Title. Individuals who have successfully met all requirements for licensure as professional nurses shall have the right to use the title Registered Nurse, abbreviated R.N. (5-21-79)

0~~5~~4. Licensed Practical Nurse Title. Individuals who have successfully met all requirements for licensure as practical nurses shall have the right to use the title Licensed Practical Nurse, abbreviated L.P.N. (5-21-79)

(BREAK IN CONTINUITY OF SECTIONS)

402. LICENSED PROFESSIONAL NURSE FUNCTIONING IN SPECIALITY AREAS. A licensed professional nurse may carry out functions beyond the basic educational preparation under certain conditions. (7-1-96)

01. Conditions for Licensed Professional Nurses Functioning in Specialty Practice Areas. A licensed professional nurse may carry out functions beyond the educational preparation described in Sections 600 through 68~~2~~1 of these rules when the nurse: ~~(5-3-03)~~( )

a. In addition to completion of the curriculum requirements of Sections 600 through 68~~2~~1 of these rules, has completed any specific education, training, and supervised practice as may be required in the Nursing Practice Act or rules; and ~~(5-3-03)~~( )

b. Conforms to recognized standards for practice of the specialty; and (5-3-03)

c. Follows written protocols approved by medical staff, nursing administration, and the employing agency administration. (5-3-03)

02. Recognized Specialty Practice Areas. Additional education, training, and practice: (5-3-03)

a. Flight/Transport Nurse. A flight/transport nurse is a licensed professional nurse who provides critical care services with a duly licensed transporting agency. (5-3-03)

i. Basic qualifications include at least two (2) years (four thousand (4,000) hours) of critical care nursing experience in the specialty area pertinent to the type of service being provided. (5-3-03)

ii. Licensed professional nurses who regularly provide care in the pre-hospital setting must maintain emergency medical technician credentialing. (5-3-03)

iii. Individual educational requirements commensurate with the specialty care being provided may include, but are not limited to: Neonatal Resuscitation Program ("NRP"), Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), Trauma Nurse Core Curriculum (TNCC) or Flight Nurse Advanced Trauma Course (FNATC) and radio communications. (5-3-03)

iv. Flight nurses must also have course work in flight physiology, aircraft safety and survival. (5-3-03)

v. A flight/transport nurse must have received a minimum of forty (40) hours of supervised clinical experience before functioning independently. (5-3-03)

b. Surgical First Assistants. A surgical first assistant is a licensed professional nurse who, under direct supervision, assists the operating surgeon. (5-3-03)

i. Nurses acting as surgical first assistants may not concurrently serve as scrub or instrument nurses. (5-3-03)

ii. A licensed professional nurse first surgical assistant in cardiovascular surgery may harvest saphenous veins after completing additional educational instruction acceptable to the board and supervised practice under direct supervision of the operating physician. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

490. UNLICENSED ASSISTIVE PERSONNEL (UAP).
The term unlicensed assistive personnel, also referred to as "UAP", is used to designate unlicensed personnel employed to perform nursing care services under the direction and supervision of licensed nurses. The term unlicensed assistive personnel also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (5-3-03)

01. Not a Substitute for the Licensed Nurse. Unlicensed assistive personnel may complement the licensed nurse in the performance of nursing functions, but may not substitute for the licensed nurse; unlicensed assistive personnel may not redelegate a delegated act. (5-3-03)

02. Delegation. The nursing care tasks that may be delegated to unlicensed assistive personnel shall be stated in writing in the practice setting. Decisions concerning delegation will be determined in accordance with the provisions of Section 400. (5-3-03)

03. Training. The following training requirements apply to all unlicensed assistive personnel. The training program shall: (5-3-03)

a. Include written objectives which describe the expected outcomes for the learner and which can be evaluated by written or oral examination and by clinical demonstration of competency or application; and (5-3-03)

b. Incorporate learning experiences appropriate to the stated objectives; and (5-3-03)

c. Be conducted by licensed professional nurses and other licensed health professionals, including, but not limited to, physicians, pharmacists, psychologists, social workers, and dieticians; and (5-3-03)

d. Include an evaluation mechanism to determine the effectiveness of the program; and (5-3-03)

e. Address the general unlicensed assistive personnel curriculum content areas set forth in Subsection 681.04.h. (5-3-03)

04. Nurse Aide Registry. In addition to the foregoing training requirements, UAP desiring placement on the Nurse Aide Registry must comply with the requirements set forth in Sections 600 through 681. (5-3-03)

05. Assistance with Medications. Where permitted by law, after completion of a Board-approved training program, unlicensed assistive personnel in care settings may assist patients who cannot independently self-administer medications, provided that: (5-3-03)

a. A plan of care has been developed by a licensed professional nurse; and (7-1-96)

b. The act has been delegated by a licensed nurse; and (7-1-96)

c. Written and oral instructions have been given to the unlicensed assistive personnel by a licensed nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency; and (7-1-96)

d. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. Inventories of narcotic medications must be maintained; and (7-1-96)

e. Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons; and (5-3-03)

f. Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. (7-1-96)

06. Prohibitions and Limitations. Unlicensed assistive personnel are prohibited from

performing any licensed nurse functions that are specifically defined in Section 54-1402~~ (b)~~, Idaho Code. ~~(5-3-03)~~( )

a. Unlicensed assistive personnel may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. (5-3-03)

b. Examples of procedures that should not be delegated to unlicensed assistive personnel include, but are not limited to: (5-3-03)

i. Sterile procedures; and (5-3-03)

ii. Preparation or administration of injections; and (5-3-03)

iii. Start, stop or adjust any IV therapy; and (5-3-03)

iv. Oxygen adjustment without clear direction from a licensed nurse; and (5-3-03)

v. Nasogastric tube feedings or medication administration; and (5-3-03)

vi. Mixing or compounding medications; and (5-3-03)

vii. Prepare, apply or adjust intermittent positive-pressure breathing machines; and (5-3-03)

viii. Assisting with either preparation or administration of non-routine medications; and (5-3-03)

ix. Any act not consistent with Subsection 490.02. (5-3-03)

491. TECHNICIANS/TECHNOLOGISTS.
~~*These individuals are not credentialed by regulatory bodies in Idaho and may include, but are not limited to: surgical, dialysis and radiology technicians/technologists, monitor technicians and medical assistants.*~~ ~~(5-3-03)~~

01. Functions. Technicians/technologists may perform limited nursing functions within the ordinary, customary, and usual roles in their fields and are exempted from licensure by the Board of Nursing under Section 54-1412, Idaho Code, (Nursing Practice Act), provided they are: (5-3-03)

a. Enrolled in or have completed a formal training program acceptable to the board; or (5-3-03)

b. Registered with or certified by a national organization acceptable to the board. (5-3-03)

02. Supervision. Technicians/technologists providing basic nursing care services on

an organized nursing unit in an institutional setting must function under the supervision of a licensed professional nurse. ~~*A licensed professional nurse shall be responsible for the development of the job description, guidelines/protocols under which the technician/ technologist provides nursing care.*~~ ~~*(5-3-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

900. RENEWAL AND REINSTATEMENT FEES.
Fees will be assessed for renewal of licensure~~*, for late renewal*~~ or for reinstatement of a lapsed ~~*license*~~, ~~*or reinstatement of a*~~ disciplined, limited, or emeritus license. Any person submitting the renewal application and fee post-marked later than August 31 shall be considered delinquent and the license lapsed and therefore invalid: ~~*(4-2-03)*~~(____)

01. Licensed Professional Nurse Renewal Fee. Licensed professional nurses will be assessed a renewal fee of ninety dollars ($90) due by August 31 of each odd-numbered year; and (3-30-06)

02. Licensed Practical Nurse Renewal Fee. Licensed practical nurses will be assessed a renewal fee of ninety dollars ($90) due by August 31 of each even-numbered year; and (3-30-06)

03. Advanced Practice Professional Nurse. Licensed advanced practice professional nurses will be assessed a renewal fee of ninety dollars ($90) due by August 31 of each odd-numbered year; and (3-30-06)

04. Emeritus License. Emeritus status nurses will be assessed a renewal fee of twenty dollars ($20) due by August 31 of the renewal year. (4-2-03)

05. ~~*Late Renewal/*~~**Reinstatement Fee**. ~~*Advanced practice professional nurses, licensed professional nurses, licensed practical nurses, and emeritus status*~~ Nurses~~,~~ requesting ~~*a late renewal,*~~ reinstatement of a lapsed~~ *license*~~, ~~*or reinstatement of a*~~ disciplined, limited, or emeritus license, ~~*and*~~ or reinstatement of an emeritus license to active status~~ *nurses seeking reinstatement of a license to active practice*~~, will be assessed ~~*a fee of thirty-five dollars ($35) for*~~ the records verification and ~~*a fifty dollar ($50)*~~ renewal fees~~ *which will be due upon application*~~. ~~*(4-2-03)*~~(____)

06. Delay in Processing. Processing of renewal applications not accompanied by cash, cashier's check, a money order, or other guaranteed funds may be delayed in order to allow clearance of personal checks through the licensee's bank. (3-30-01)

901. LICENSURE FEES.
Fees will be assessed for licensure of professional and practical nurses by examination and endorsement, and for temporary licenses and verification of licensure to another state. (6-1-78)

01. Licensure by Examination. A fee will be assessed applicants for licensure by

examination as follows: (3-30-01)

a. Professional nurse applicants: ninety dollars ($90). (3-30-01)

b. Practical nurse applicants: seventy-five dollars ($75). (3-30-01)

02. Advanced Practice Professional Nurses. Advanced practice professional nurse applicants: ninety dollars ($90). (3-30-01)

03. Licensure by Endorsement. The fee assessed for licensure by endorsement of licensed professional and licensed practical nurses will be one hundred ten dollars ($110). (3-30-06)

04. Verification of Licensure Fee. Licensed professional and licensed practical nurses requesting verification of licensure to another state will be assessed a fee of thirty dollars ($30) which will be due upon request. (3-30-01)

05. Authorization Fee. Advance practice professional nurses will be assessed an authorization fee of fifty dollars ($50) which will be due upon application. (3-30-01)

06. Emeritus License Fee. Applicants requesting emeritus status will be assessed a fee of twenty-five dollars ($25), which will be due upon application. (4-2-03)

07. Temporary License Fee. Professional and practical nurses requesting a temporary license will be assessed a fee of twenty-five dollars ($25) which will be due upon application. (3-30-01)

08. Limited License Fee. Persons who are issued a limited license following disciplinary action or temporary voluntary surrender of a license will be assessed a fee of one hundred dollars ($100) which will be due upon issuance of the limited license. (3-30-01)

09. Records Verification Fee. Thirty-five dollars ($35). ( )

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 359 through 362.

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 25th day of October, 2006.

THIS 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 18, 2006.

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 the version of reference guidelines for peer review standards.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

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, ~~5~~6th 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. (4-11-06)

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)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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) 54-2406, 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 373 through 376.

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 25th day of October, 2006.

THIS 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) 54-2406, 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 18, 2006.

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

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

To require applicants to take and pass the examination within one year in an effort to keep applications current.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

300. REQUIREMENTS FOR LICENSE (RULE 300).
Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent

(70%). For those classifications of Class II through IV, successful completion of the examinations from the immediate lower type and classification shall be a prerequisite to examination eligibility for the next higher classification of the same type, except that applicants for wastewater collection operator or wastewater laboratory analyst or drinking water distribution operator licenses may apply for any classification examination for which they hold the required education and experience. (3-30-06)

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine. (3-24-05)

b. The examination for all types and classes of licensure shall be validated and provided by the Association of Boards of Certification (ABC). (3-30-06)

c. Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination. (3-24-05)

d. Applicants must take and pass the examination within one (1) year of application approval. After one (1) year a new application and applicable fees must be submitted. ( )

02. Education and Experience Requirements. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. (3-24-05)

a. Each applicant for an Operator-In-Training License must have a high school diploma or GED and pass a Class I exam. (3-30-06)

b. To qualify for a Very Small Water System license an operator must have a high school diploma or GED and six (6) months of acceptable operator-in-training experience at a water distribution system. (3-24-05)

c. To qualify for a Class I license an applicant must have a high school diploma or GED and one (1) year of acceptable experience at a Class I or higher system. (3-24-05)

d. To qualify for a Class II treatment or lab analyst license an applicant must have a high school diploma or GED and three (3) years of acceptable Class I operating experience at a Class I or higher system. (3-24-05)

e. To qualify for a Class III treatment or lab analyst license an applicant must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class II operating experience of a Class II or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

f. To qualify for a Class IV treatment or lab analyst license an applicant must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class

III operating experience at a Class III or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

g. To qualify for a Class II collection or distribution license an operator must have a high school diploma or GED and three (3) years of acceptable operating experience at a Class I or higher system. (3-24-05)

h. To qualify for a Class III collection or distribution license an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

i. To qualify for a Class IV collection or distribution license an operator must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience at a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

j. To qualify for a lagoon license, an operator must have a high school diploma or GED and twelve (12) months of acceptable supervised operating experience at a Lagoon system. (3-24-05)

k. To qualify for a Wastewater Land Application license, an operator must have a high school diploma or GED, a current wastewater treatment license and minimum six (6) months of hands-on operating experience at a wastewater land application system. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. (3-24-05)

l. To qualify for a backflow assembly tester license, an applicant must have a high school diploma or GED, and shall document successful completion of a board approved backflow assembly tester training program in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of theory instruction, practical instruction, and a practical examination in compliance with the USC Test procedures. (3-30-06)

m. To qualify for an original wastewater laboratory analyst license, an applicant must hold a current water treatment, wastewater treatment or lagoon license. (3-24-05)

03. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (3-24-05)

a. No substitution for operating experience shall be permitted for licensure as a very small system operator or a Class I operator. (3-24-05)

b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both operating and responsible charge) has been met by actual on-site operating experience. (3-24-05)

c. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (3-24-05)

d. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of responsible charge experience. (3-24-05)

e. Education substituted for operating experience may not be also credited toward the education requirement. (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)

04. Substituting Experience for Education. Where applicable, approved operating and responsible charge experience may be substituted for education as specified below: (3-24-05)

a. One (1) year of operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. (3-24-05)

b. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. (3-24-05)

05. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes but is not limited to the following: (3-24-05)

a. Experience as an environmental or operations consultant; (3-24-05)

b. Experience in an environmental or engineering branch of federal, state, county, or local government; (3-24-05)

c. Experience as a wastewater collection system operator; (3-24-05)

d. Experience as a wastewater treatment plant operator; (3-24-05)

e. Experience as a water distribution system operator and/or manager; (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible

charge experience. (3-24-05)

g. Experience in waste treatment operation and maintenance. (3-24-05)

06. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: (3-24-05)

a. High School - High School diploma = GED or equivalent as approved by the board = four (4) years. (3-24-05)

b. College - Thirty-five (35) credits = one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the board). (3-24-05)

c. Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = one (1) CEU; forty-five (45) CEUs = one (1) year of college. (3-24-05)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

DOCKET NO. 24-0901-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective April 24, 2006, 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 and is also adopting this rule as a temporary rule. The action is authorized pursuant to Section(s) 54-1604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule.

Change rule 300 to allow for masters level education to be considered in the experience portion of the rule pertaining to endorsement to allow for qualified administrators to protect the public. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 379 and 380.

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 the pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 31st day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 24, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-1604, 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 18, 2006.

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

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

Change rule 300 to allow for masters level education to be considered in the experience portion of the rule pertaining to endorsement.

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

Change rule 300 to allow for masters level education to be considered in the experience portion of the rule pertaining to endorsement to allow for qualified administrators to protect the public.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

300. ENDORSEMENT (RULE 300).
Each applicant for licensure by endorsement shall be required to document compliance with each of the following requirements. (4-6-05)

01. A Valid License. Hold a valid and current nursing home administrator license issued in another state. (4-6-05)

02. Experience/Education. (4-24-06)T

a. ~~*Two*~~ One (~~2~~1) year~~s~~ of ~~*practice as a licensed nursing home*~~ experience as an administrator in training in another state~~.~~; or ~~*(4-6-05)*~~(4-24-06)T

b. A total of one (1) year of combined experience obtained in an administrator in training program and from practical experience as an administrator in another state; or(4-24-06)T

c. A master's degree in health administration related to long-term care from an accredited institution; or (4-24-06)T

d. A master's degree in health administration from an accredited institution and one (1) year management experience in long-term care. (4-24-06)T

03. Criminal History. Has not been found guilty or convicted or received a withheld judgment or suspended sentence for any felony or any crime involving moral turpitude or received discipline for a license offense in any state. (4-6-05)

04. National Examination. Has taken and successfully passed the NAB examination. (4-6-05)

05. State Examination. Has taken and successfully completed the state of Idaho examination. (4-6-05)

06. Affidavit. Has certified under oath to abide by the laws and rules governing the practice of nursing home administration in Idaho. (4-6-05)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY

DOCKET NO. 24-1001-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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) 54-1509, 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 381 through 385.

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 25th day of October, 2006.

THIS 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) 54-1509, 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 18, 2006.

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:

Revise examination requirements and length of work experience required for endorsement, revise continuing education to include observation and the use of excess hours, update the code of ethics, and revise the contents of prescriptions.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

275. ENDORSEMENT (RULE 275).

01. Endorsement. Any person who presents to the Board of Optometry a certified copy of a certificate or license of registration which he holds in good standing in another state or a foreign country, which state or foreign country has similar requirements for licensing or

registration as is provided for new applicants in Idaho (including therapeutic privileges), may apply to the Board for the issuance of a license to practice optometry in the state of Idaho. (4-5-00)

02. Conditions to be Granted a License. The right to be granted a license to practice optometry in Idaho is also subject to the following conditions set out below: (7-1-93)

a. The submission of a completed application meeting the requirements of Subsection 175.01 including the applicable fee. (4-5-00)

b. That the license or certificate of registration of the applicant shall not have been suspended or revoked by any state or country or subject to any pending or unresolved licensure action in any state or country. That the applicant must not have committed any act which would constitute a violation of the Optometry Act or Board Rules. (4-5-00)

c. ~~*That for those licensed in another state after January 1, 1986 the applicant has successfully passed the "Treatment and Management of Ocular Disease Examination" administered by the Association of Regulatory Boards of Optometry and completed and returned the state of Idaho law examination.*~~ For those licensed in another state ~~*before January 1, 1986*~~ the applicant must document to the Board for approval, the education, training, and examination for diagnostic and therapeutic privileges in the other state and return the state of Idaho law examination. ~~*(3-20-04)*~~(____)

d. That the applicant has been engaged in the practice of optometry continuously for ~~*not less than*~~ three (3) of the last ~~*five*~~ four (~~5~~4) years. ~~*(4-5-00)*~~(____)

276. -- 299. (RESERVED).

300. CONTINUING EDUCATION IN OPTOMETRY (RULE 300).

01. Hours Required, Advance Approval. Each optometrist licensed by the state of Idaho shall attend in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of twelve (12) full hours of post-graduate optometric education courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. In addition, all Council on Optometric Practitioners Education (COPE) approved courses would be approved for continuing education credit. If an optometrist attends or plans to attend a course of study or seminar which has not been approved in advance, he may petition the Board for approval of that educational course of study, setting forth a description of the course. The Board may, in its discretion, approve the course upon review of the material submitted either in advance or after completion of the course. (8-24-94)

02. Additional Hours Required to Use Therapeutic Pharmaceutical Agents. Each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of six (6) additional full hours of post-graduate optometric courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. This six (6) hours of continuing education must be in

courses involving ocular pharmacology and/or advanced ocular disease and are in addition to the twelve (12) hours of continuing education required under Subsection 300.01. (7-1-93)

03. Correspondence/Home Study Courses/Observation. The Board allows credit for correspondence courses, individual home study and observation that is germane to the practice of optometry. No more than six (6) hours of continuing education shall be permitted each year in correspondence courses or other continuing education obtained ~~through the mail or~~ from "home study" courses or observation. ~~(8-24-94)~~(____)

04. Waiver of Requirements. The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. (3-15-02)

05. Renewal Application Form. Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall attest on their annual license renewal application that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action. (3-20-04)

06. Audit. The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. (3-20-04)

07. Documentation of Attendance. It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. (3-20-04)

08. Excess Hours. Continuing education hours, not to exceed six (6) hours, accumulated during the twelve (12) months immediately preceding a license renewal may be applied toward meeting the continuing education requirement for the following license renewal. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) year. (____)

301. -- 324. (RESERVED).

325. CODE OF ETHICS (RULE 325).

01. Patient's Visual Welfare. The licensed optometrist shall keep the patient's visual welfare uppermost in his consideration at all times and promote the best methods of care for the visual needs of mankind. (7-1-93)

02. Confidentiality. The optometrist shall preserve information concerning his

patients in confidence and not release that information unless authorized by the patient. An optometrist may, however, supply information of an otherwise confidential or privileged nature when lawfully subpoenaed to testify at a deposition or hearing in any proceeding before the Board of Optometry, or at any other time and place ordered by a court of law. (7-1-93)

03. Conduct of Practice. The optometrist shall conduct his practice in a dignified and professional manner and in keeping with the mode of practice of a professional person entrusted with the care of the health of citizens of this state and shall abide by the rulings of the Board of Optometry. (7-1-93)

04. Unprofessional Conduct. In order to define what constitutes unprofessional conduct, the board ~~*hereafter lists and*~~ sets forth certain prohibited actions. In conducting his practice, an optometrist must not: ~~*(7-1-93)*~~(____)

a. Practice optometry in any manner other than as a professional person in an individual capacity, or in partnership with or associate with other licensed health care professionals~~*, under his own name and not as a corporation or officer or agent of a corporation or other business entity*~~. An optometrist may be a stock holder in and practice as a member of a professional service corporation with other licensed health care professionals as authorized by Title 54, Chapter 15, Idaho Code, but the optometrist must list his individual name as well as any name selected for the professional service corporation on any letterheads, telephone directories, office or building directories, or other places where the general public might be advised of the fact that the individual is practicing optometry, as required by these rules. ~~*(3-15-02)*~~(____)

b. Use either "Cappers" or "Steerers" or accept a split or divided fee for the purpose of obtaining patients or use solicitors or agents for the purpose of securing patients or conducting eye examinations or furnishing optometric services. (7-1-93)

~~*c. Make or conspire to make any arrangement, agreement, or engage in any practice whereby a supplier of ophthalmic materials shall:* (7-1-93)~~

~~*i. Provide office space for an optometrist.* (7-1-93)~~

~~*ii. Pay rent upon the office space occupied by an optometrist.* (7-1-93)~~

~~*iii. Pay the professional fees of an optometrist.* (7-1-93)~~

~~*iv. Pay for the advertising for an optometrist.* (7-1-93)~~

~~*v. Pay commissions to an optometrist upon ophthalmic materials furnished by such optometrist to his patients.* (7-1-93)~~

~~*iv. Consistently refer prospective purchasers of ophthalmic materials to an optometrist in violation of the law.* (7-1-93)~~

~~*d*~~**c.** Allow his prescription files and records to be used by any unlicensed person, firm, or corporation for the practice of optometry. (7-1-93)

~~e. As a regular pattern of practice, accept referrals from retail optical outlets that violate section 54-1525, Idaho Code, pertaining to referral of patients, or which are located in close proximity to the optometrist's office for the purpose of inducing consistent patronage of his services because of location of office rather than professional reputation. (7-1-93)~~

~~f~~d. Fail to perform services for which fees have been received. (7-1-93)

~~g~~e. File false reports of services performed or fees rendered. (7-1-93)

~~h~~f. Permit the use of his name or professional title by or in conjunction with any person not an optometrist, or any firm, company, corporation or military association which illegally practices or in any manner holds himself or itself out to the public as being entitled to practice the profession of optometry when not licensed to do so under the law of Idaho or which uses the title "Optometric Services" in such a manner in advertising as to convey to the public the impression that the individual or corporation is entitled to practice optometry or furnish optometric advice or services when not so authorized by law. (7-1-93)

~~i~~g. Enter into or continue in a contract, agreement, or understanding of any kind, or engage in any course of conduct with any person, firm or corporation, or their agents, whereby said optometrist expressly or impliedly agrees: (7-1-93)

i. To refer the patient back to said person, firm, or corporation referring the patient for any subsequent service or receipt of ophthalmic material. (7-1-93)

ii. That if any patient is referred by any person, firm or corporation to the optometrist, the optometrist will refrain from supplying to the patient any ophthalmic materials. (7-1-93)

~~j~~h. Directly or indirectly give any person, association, firm or corporation, or their agents, anything of pecuniary benefit or value as consideration for the referral of any patient to said optometrist. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

450. CONTENTS OF PRESCRIPTION (RULE 450).
Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: (7-1-93)

01. Prescription for Spectacles. Prescriptions for spectacles shall contain the following: (7-1-93)

a. Sphere, cylinder, axis, prism power and additional power, if applicable; and ~~(7-1-93)~~(____)

~~**b.** Position of optical center or interpupillary distance; (7-1-93)~~

c. ~~*Seg type; and*~~ ~~*(7-1-93)*~~

~~*d*~~**b.** Expiration date of the prescription. (7-1-93)

02. All Prescriptions for Rigid Contact Lenses. All prescriptions for rigid contact lenses shall contain at least the following information: (7-1-93)

a. Base curve; (7-1-93)

b. Peripheral curve or curves including width; (7-1-93)

c. Overall diameter; (7-1-93)

d. Optical zone diameter; (7-1-93)

e. Power; and ~~*(7-1-93)*~~(____)

~~*f.*~~ ~~*Center thickness;*~~ ~~*(7-1-93)*~~

~~*g.*~~ ~~*Color; and*~~ ~~*(7-1-93)*~~

~~*h*~~**f.** Expiration date of the prescription. (7-1-93)

03. All Prescriptions for Soft Contact Lenses. All prescriptions for soft contact lenses shall contain at least the following information: (7-1-93)

a. Lens manufacturer or "brand" name; (7-1-93)

b. Series or base curve; (7-1-93)

c. Power; (7-1-93)

d. Diameter, if applicable; (7-1-93)

e. Color, if applicable; and (7-1-93)

f. Expiration date of the prescription. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 404 through 407.

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 25th day of October, 2006.

THIS 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 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation

must be made not later than five (5) days prior to the hearing, to the agency address below.

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

To clarify required credentials to be filed, allow for termination of inactive files after twenty-four (24) months of no contact, and delete sections pertaining to Clinical Practice Exemption and Independent Practice as deadline is past.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

011. -- 0~~99~~74. (RESERVED).

075. CREDENTIALS TO BE FILED BY ALL APPLICANTS (RULE 075).

01. Completed Application. An application shall be completed by all applicants for

licensure upon a form prescribed by the State Board of Social Work Examiners. ( )

02. Official Documents. All applicants shall arrange for official documents including transcripts to be transmitted by the registrars of the educational institutions or official custodian of documents, directly to the board. ( )

03. Applications on File. Applications on file with the Board for a period in excess of two (2) years from the date of receipt by the Bureau shall be terminated unless good cause is demonstrated to the Board. ( )

076. -- 099. (RESERVED).

(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)~~

0~~6~~4. 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)

0~~7~~5. 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)

0~~8~~6. 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. 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). Supervisors must hold a degree in social work and a current license in good standing, except as noted in Subsection 201.08.c. (4-11-06)

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)

0~~9~~7. 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)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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) 54-3404, 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 408 through 412.

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 25th day of October, 2006.

THIS 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) 54-3404, 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 18, 2006.

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 pertaining to ethics, revise counselor supervisor requirements, clarify qualifications for clinical professional counselors, clarify supervision for marriage and family therapists, and add national credential registry for endorsement qualifications.

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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE (RULE 4).

01. ACA Code of Ethics. "ACA Code of Ethics and Standards of Practice," as

published by the American Counseling Association (ACA), effective ~~1995~~ 2005 and referenced in Subsections 241.02, 350, and 450.01, is herein incorporated by reference and is available from the Board's office and on the Board web site. ~~(3-30-06)~~(____)

02. AAMFT Code of Ethics. The document titled "AAMFT Code of Ethics", as published by the American Association for Marriage and Family Therapy (AAMFT), effective July 1, 2001 and referenced in Subsections 350, and 450.01, is herein incorporated by reference and is available from the Board's office and on the Board web site. (3-30-06)

03. ACES Guidelines. The document titled "ACES" that provides supervision guidelines for supervisors, as published by the Association for Counselor Education and Supervision (ACES), dated March 1993 referenced in Subsection 200.03.a., is herein incorporated by reference and is available from the Board's office and on the Board web site. (4-2-03)

04. Guidelines. The document titled "Approved Supervision Designation Handbook" that provides supervision guidelines for supervisors, as published by the American Association for Marriage and Family Therapy (AAMFT), dated October 2002 referenced in Subsection 240.03.a., is herein incorporated by reference and is available from the Board's office and on the Board web site. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

200. COUNSELOR SUPERVISOR REQUIREMENTS (RULE 200).
Effective July 1, 2004, Idaho licensed counselors shall be registered with the Board in order to provide postgraduate supervision for those individuals pursuing licensure in Idaho as a counselor. (4-2-03)

01. Requirements for Registration. (4-2-03)

a. Document at least two (2) years experience as a licensed counselor ~~*in Idaho*~~. ~~(4-2-03)~~(____)

b. Document at least one thousand five hundred (1,500) hours of direct client contact as a counselor. (4-2-03)

c. Document fifteen (15) contact hours of education in supervisor training as approved by the Board. (4-2-03)

d. Have not been the subject of any disciplinary action for five (5) years prior to application for registration. (4-2-03)

02. Registration. A supervisor applicant shall submit to the Bureau a completed application form as approved by the Board. (4-2-03)

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. (4-2-03)

b. A supervisor's registration shall be valid only so long as the individual's counselor license remains current and in good standing. (4-2-03)

03. Supervision. (4-2-03)

a. A Registered Counselor Supervisor shall provide supervision in conformance with the guidelines for supervisors dated March 1993, adopted by the Association for Counselor Education and Supervision. (4-2-03)

b. A Registered Counselor Supervisor shall not provide supervision to more than six (6) individuals. (3-30-06)

201. -- 224. (RESERVED).

225. CLINICAL PROFESSIONAL COUNSELOR LICENSURE (RULE 225).
Licensure as a "clinical professional counselor" shall be restricted to persons who have successfully completed the required examination and the following: (3-30-06)

01. Requirements. The following requirements must be met: (3-13-02)

a. Hold a valid licensed professional counselor license; and (4-2-03)

b. Document two thousand (2,000) hours of direct client contact experience under supervision accumulated in no less than a two (2) year period after licensure in any state. (4-2-03)

i. All applicants for Clinical Professional Counselor license must provide verification of meeting at least one thousand (1,000) hours of supervised experience under the supervision of a licensed Clinical Professional Counselor. The remainder of the supervision may be provided by licensed Psychiatrists, Counseling/Clinical Psychologists, Licensed Clinical Social Workers registered with the Board of Social Work Examiners, or Marriage and Family Therapists registered with the Board. ~~(4-6-05)~~(____)

ii. The ratio for supervision will consist of one (1) hour of face-to-face, one-on-one (1:1) or one-to-two (1:2) supervision to every thirty (30) hours of direct client contact. (7-1-97)

iii. No more than one-half (1/2) of group supervision shall be allowed. (____)

c. Successful completion of the required written examination. (3-30-06)

d. The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

02. Supervisors. A supervisor may supervise no more than six (6) licensed professional counselors. (3-30-06)

226. -- 237. (RESERVED).

238. MARRIAGE AND FAMILY THERAPISTS (RULE 238).
The following requirements must be met for marriage and family therapist licensure: (3-13-02)

01. Graduate Degree. Possess a graduate degree as outlined in Section 54-3405C(1), Idaho Code. (3-13-02)

02. Practicum. Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code. (3-13-02)

03. Supervised Marriage and Family Therapy Experience. Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. Effective July 1, 2004, a Marriage and Family Therapist must be registered with the Board to provide post graduate supervision. (4-2-03)

a. A minimum of two thousand (2,000) postgraduate direct client contact hours, in no less than a two (2) year time period shall include; (3-13-02)

i. A minimum one thousand (1,000) direct client contact hours with couples and families; and (3-13-02)

ii. Two hundred (200) hours of supervision. (3-13-02)

b. Supervision must be obtained from a registered marriage and family therapist supervisor or a licensed clinical professional counselor registered with the Board, licensed psychologist, licensed clinical social worker registered with the Board of Social Work Examiners, or licensed psychiatrist who documents: ~~(3-20-04)~~(____)

i. A minimum of five (5) years of experience providing marriage and family therapy; and (3-20-04)

ii. Fifteen (15) contact hours of education in supervisor training; and (3-20-04)

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. (3-20-04)

c. No more than one hundred (100) hours of group supervision shall be allowed. Group supervision shall be defined as no more than six (6) supervisees per each supervisor; and (3-13-02)

d. Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)

e. Supervision must employ the use of audio technologies or video technologies or co-therapy, or live supervision; and (3-13-02)

f. In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (3-13-02)

g. The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

04. Examination. (3-13-02)

a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (3-13-02)

b. The examination will be conducted at a time and place specified by the Board. (3-13-02)

c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB. Reexamination shall consist of the entire examination. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

300. ENDORSEMENT (RULE 300).
The Board may grant a license to any person who submits a completed application on a form approved by the board together with the required fees and who: (3-13-02)

01. Holds a Current License. The applicant must be the holder of a current active license, in the profession for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the board from the issuing agency; and (3-13-02)

02. Has Not Been Disciplined. The applicant must certify they have not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (3-13-02)

03. Is of Good Moral Character. The applicant must certify they are of good moral character and have not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (3-13-02)

04. Has Documented Experience. The applicant must provide a documented record of at least five (5) years actual practice under licensure immediately prior to application in the profession for which a license is being sought, or can demonstrate hardship or extenuating circumstances that prohibited practice during a portion of the five (5) year period as determined by the board; and (3-13-02)

05. Will Abide by Laws, Rules and Code of Ethics. The applicant must certify under oath to abide by the laws and rules governing the practice of counseling and marriage and family therapy in Idaho and the applicable code of ethics as adopted; and either ~~(3-13-02)~~(____)

06. National Credential Registry. If applicant has been granted credentials by the American Association of State Counseling Boards as qualifying for Category II of the national credential registry or any such similar qualification granted by a national credentialing entity otherwise approved by the Board; or (____)

0~~6~~7. Provides Information. The applicant must document at least three (3) of the following during the five (5) years immediately prior to application: (3-13-02)

a. A minimum of one thousand (1,000) hours client contact; (3-13-02)

b. Service as an officer of a state or national counseling or marriage and family therapy organization, or a member of a state or national counseling or marriage and family therapy board or committee, or other leadership positions as may be approved by the board; (3-13-02)

c. Teaching at least three (3) graduate courses for credit at an accredited college or university; (3-13-02)

d. A certificate to supervise issued by the NBCC or AAMFT; (3-13-02)

e. Providing at least twelve (12) months of supervision to each of no less than three (3) persons seeking licensure; (3-13-02)

f. Maintained professional liability insurance for the previous five (5) years with proof of no claims filed; (3-13-02)

g. Obtained a post graduate degree in a field of study related to counseling or marriage and family therapy that is in addition to the minimum licensure requirements; (3-13-02)

h. Current certification by a national credentialing entity as approved by the board in the discipline for which licensure is sought; (3-13-02)

i. Twenty (20) hours of continuing education per year for the five (5) years immediately prior to application. (3-13-02)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE IDAHO STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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) 54-4705, 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 413 and 414.

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 25th day of October, 2006.

THIS 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) 54-4705, 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 18, 2006.

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 and to reduce the original license fee and the annual renewal fee from $250 to $200 per license.

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

There is no impact on general funds. This change would reduce the cash balance in dedicated funds for the Board by a total of approximately $7,050 per year. The original license fee and renewal fee are authorized pursuant to Section 54-4710, 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 because there was no controversy on the changes.

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 25, 2006.

DATED this 14th day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

005. ADDRESS OF THE IDAHO STATE BOARD OF ACUPUNCTURE (RULE 5).
The office of the Board of Acupuncture is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main St., Suite 220, Boise, ID 83702. 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 ~~acu@ibol.state.id.us~~ acu@ibol.idaho.gov. The Board's official web site is at ~~http://www.ibol.idaho.gov/acu.htm~~ www.ibol.idaho.gov/acu.htm. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. FEES (RULE 300).

01. Application Fee. Application fee for any original license or certification – two hundred ~~fifty~~ dollars ($2~~5~~0~~0~~). ~~(3-30-01)~~(____)

02. Original License Fee. (3-30-01)

a. Original license fee - two hundred ~~fifty~~ dollars ($2~~5~~0~~0~~). ~~(3-30-01)~~(____)

b. Original fee for Certification - two hundred ~~fifty~~ dollars ($2~~5~~0~~0~~). ~~(3-30-01)~~(____)

c. Original fee for Technician Certification - one hundred fifty dollars ($150). (3-30-01)

03. Annual Renewal Fee. (3-10-00)

a. Annual renewal fee for Licensure – two hundred ~~fifty~~ dollars ($2~~5~~0~~0~~). ~~(3-30-01)~~(____)

b. Annual renewal fee for Certification – two hundred ~~fifty~~ dollars ($2~~5~~0~~0~~). ~~(3-30-01)~~(____)

c. Annual renewal fee for Technician Certification – one hundred fifty dollars ($150). (3-10-00)

04. Inactive License. Inactive license or certification fee – fifty dollars ($50). (3-30-01)

05. Non-refundable. All fees are non-refundable. (3-10-00)

06. Yearly Fees. With the exception of Subsection 300.01 and 300.02 all fees provided under these rules are yearly fees. (3-10-00)

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1717 and 37-2715, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 79 and 80.

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 the temporary and proposed rule, contact R. K. "Mick" Markuson, Director, (208) 334-2356.

DATED this 23rd day of August, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 31, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1717and 37-2715, 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 August 16, 2006.

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

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

Pharmacies in Idaho have requested specificity regarding the positive identification records to be kept by pharmacies when filling prescriptions for controlled substances. Clarification was also requested by the legislative committee which reviewed the rule during the 2006 legislative session. There is an immediate need for the rule change to assist pharmacies to protect the public health and welfare of Idaho citizens by maintaining appropriate records for law enforcement and the Board of Pharmacy with respect to regulation of controlled substance prescription drugs. The proposed rule changes specifically delineate the positive identification information that pharmacies must keep when dispensing controlled substance prescription drugs directly to individuals at the pharmacy. The proposed rule changes also specifically set out the standards to be met by the pharmacies with respect to retrieval of the positive identification information.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to protect the public health and welfare and to comply with deadlines in amendments to governing law.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the immediate need for the rule change.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 13th day of July 2006.

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 IS THE TEXT OF THE PENDING RULE

464. FILLING OF A PRESCRIPTION FOR A CONTROLLED SUBSTANCE.

01. Filling and Dispensing. 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. (7-31-06)T

02. Identification. 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. (7-31-06)T

a. 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. For each controlled substance prescription dispensed directly to an individual at the pharmacy, the pharmacy shall maintain a record of; (7-31-06)T

i. The name of the person receiving the prescribed controlled substance (if other than the patient); (7-31-06)T

ii. The type of positive identification presented by such person; (7-31-06)T

iii. The state, military branch or other governmental entity issuing the identification; and (7-31-06)T

iv. The specific identification number of the drivers license, identification card or passport. (7-31-06)T

b. 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; in such instances, the pharmacy shall maintain a record of: (7-31-06)T

i. The name of the person receiving the prescribed controlled substance (if other than the patient); (7-31-06)T

ii. A notation indicating that the patient or other person receiving the prescribed controlled substance was known to the pharmacy staff; and (7-31-06)T

iii. The name of the pharmacy staff person making the identification. ~~(4-11-06)~~(7-31-06)T

03. Retrieval of Identification Records. The identification records required under Subsection 464.02 of this rule may be maintained by the pharmacy in any fashion provided that the pharmacy must be able to produce such records upon any lawful request, and match the prescription filled with the positive identification records for the person receiving the prescribed controlled substances, within no more that two (2) business days from the date of the request. (7-31-06)T

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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, 37-2715, 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 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 426 and 427.

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 the temporary and proposed rule, contact R. K. "Mick" Markuson, Director, (208) 334-2356.

DATED this 26th day of October 2006.

EDITOR'S NOTE: Docket No. 27-0101-0602 was mistakenly published twice in the Administrative Bulletin under two (2) different docket numbers. It was originally published correctly in the August 2, 2006 Administrative Bulletin, Volume 06-8, under Docket No. 27-0101-0602. It was inadvertently republished in the September 6, 2006 Administrative Bulletin, Volume 06-9, under Docket No. 27-0101-0603. Docket number 27-0101-0603 is being used for this current proposed rulemaking.

THIS 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, 37-2715, 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 18, 2006.

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 necessary to clarify the obligation of licensed pharmacies to submit theft loss information to the Idaho Board of Pharmacy. The pharmacies are already required to submit this information to the DEA and they need only send a copy of the completed DEA form to the Board. This information will assist the Board in protecting the public from the effects of unauthorized use and diversion of controlled substances. The proposed change requires licensed pharmacies to submit the same theft loss information to the Idaho Board of Pharmacy that they now submit to the DEA.

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 because of the relatively simple nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact R. K. "Mick" Markuson, Director, (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 25, 2006.

DATED this 23rd day of August, 2006.

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 IS THE TEXT OF THE PENDING RULE

142. STANDARDS OF CONDUCT.

01. Duty to Cooperate in Investigation. It is the duty of every licensee to cooperate with a disciplinary investigation and any failure or refusal to do so is grounds for disciplinary action. (4-6-05)

02. Duty to Report Theft, Loss, or Adulteration. It is the duty of every pharmacist-in-charge or pharmacy director to report any theft or loss of controlled substances and any adulteration of any prescription drug to the Board, even if the theft, loss, or adulteration has been accounted for and the employee disciplined internally. The report of theft or loss required hereunder shall contain all of the information reported to the Drug Enforcement Administration (DEA) as required under 21 CFR 1301.74(c), which information shall be reported to the Board at the same time it is reported to the DEA. ~~(4-6-05)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

471. THEFT LOSS REPORTS

It is the duty of every Registrant to report any theft or loss of controlled substances to the Board, even if the theft or loss has been accounted for and the employee disciplined internally. The report of the theft or loss required hereunder shall contain all of the information reported to the Drug Enforcement Administration (DEA) as required under 21 CFR 1301.74(c), which information shall be reported to the Board at the same time it is reported to the DEA. ( )

47~~1~~2. -- 490. (RESERVED).

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.01.01 - RULES OF PANHANDLE HEALTH DISTRICT 1

DOCKET NO. 41-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session except as otherwise provided by the rule change, 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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-416, Idaho Code.

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

Expand Institutional Controls Program to include OU-3 (Coeur d'Alene River Basin) because remediation is taking place in OU-3 of the Bunker Hill Superfund site cleanup. Rules proposed are very similar to existing rules codified in IDAPA 41.01.01.500 – merely covers additional lands with minor changes in procedure and standards to reflect differences in Record of Decision. Additional changes have been proposed to the District's rules to clarify septic tank standards and procedures, to clarify existing rules regarding critical materials on the Rathdrum Prairie Aquifer, to correct outdated references to the Department of Health and Welfare and to include required sections as requested by the Office of Administrative Rules.

The pending rule is being adopted as proposed, subject only to proofreading corrections authorized pursuant to Section 67-5228, Idaho Code. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 539 through 563.

FISCAL IMPACT: The proposed rule would not have a negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jerry Cobb (Shoshone County/Bunker Hill), 114 West Riverside, Kellogg, ID (208) 783-0707 or Dale Peck, (all other changes) 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

DATED this 15th day November, 2006.

THIS NOTICE WAS PUBLISHED FOR THE PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing. The action is authorized pursuant to Section 39-416, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

December 12, 2006
2:00 p.m.
Panhandle Health District
8500 N. Atlas Road
Hayden, ID 83835

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 summary of this action is found in Idaho Administrative Bulletin Vol. 06-10, dated October 4, 2006, pages 539 through 563.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Dale Peck, 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

DATED this 10th day of November, 2006.

THIS 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 39-416, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held in Coeur d'Alene and Kellogg, not less than fourteen (14) days after publication of this Notice. Exact dates and times will be published as required by law once hearing dates are chosen.

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:

Expand Institutional Controls Program to include OU-3 (Coeur d'Alene River Basin)

because remediation is taking place in OU-3 of the Bunker Hill Superfund site cleanup. Rules proposed are very similar to existing rules codified in IDAPA 41.01.01.500 - merely covers additional lands with minor changes in procedure and standards to reflect differences in Record of Decision. Additional changes have been proposed to the District's rules to clarify sewage disposal systems standards and procedures, to clarify existing rules regarding critical materials on the Rathdrum Prairie Aquifer, to correct outdated references to the Department of Health and Welfare and to include required sections as requested by the Office of Administrative Rules.

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

Specific fees established by prior rule will be extinguished, to be set by resolution of the Board of Health in subsequent proceedings in accordance with provisions of IDAPA 41.02.01. No fees will be established by 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because extensive negotiation with potentially affected parties was conducted prior to rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jerry Cobb (Shoshone County/Bunker Hill), 114 West Riverside, Kellogg, ID (208) 783-0707 or Dale Peck, (all other changes) 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Dale Peck, Panhandle Health District, 8500 North Atlas Road, Hayden, ID 83835 and must be delivered on or before 5:00 p.m., local time, on October 25, 2006.

DATED this 30th day August, 2006.

Jeanne Bock, Director
Public Health District #1
8500 North Atlas Road
Hayden, ID 83835
Phone: (208) 415-5100
Fax (208) 415-5106

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. **Title**. These rules shall be cited as IDAPA 41.01.01, "Rules of Idaho Public Health District #1." ( )

02. **Scope**. These rules shall govern issues concerning the mission of Idaho Public Health District #1 as established by the Idaho Legislature, in particular addressing matters of local concern in order to protect public health and the environment in the counties that comprise the District. ( )

002. WRITTEN INTERPRETATIONS.
Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking in the adoption of these rules are available for public inspection and copying at cost in the principal place of business of this agency. ( )

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS.

01. **Office Hours**. The main office of the District is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. ( )

02. **Mailing and Street Address**. The District's mailing/street address is: Panhandle Health District, 8500 N. Atlas Road, Hayden, ID 83835. ( )

005. PUBLIC RECORDS.
Subject to Idaho Code provisions and applicable Federal statutes and regulations, official documents of the Panhandle Health District may be examined after filing of proper written request filed in the office of the Director at the address above. Among others, health-related and personnel- related records are generally not subject to public disclosure. Additional public records information may be obtained by contacting the Director's office. ( )

00~~7~~6. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

100. WATER QUALITY CONTROL.

01. **Sewage and Waste Disposal -- Political Subdivisions**. Any political subdivision within the District may enter into a sewage management plan agreement with the District, the purpose of which will be to establish permanent sewage disposal practices that will fulfill the needs and goals of the political subdivision and the responsibilities of the District. The Board

shall have authority to enforce the provisions of sewage management plan agreements. (7-1-93)

02. Sewage and Waste Disposal -- Public Sewage Treatment. All public sewage treatment facilities shall be constructed and operated in accordance with applicable state and federal laws. All public sewage treatment facilities constructed after the effective date of this rule shall be owned, operated, or maintained by a political subdivision of the state of Idaho, as defined in Idaho Code or by such entity as may be deemed acceptable by the Board. All public sewage treatment facilities incorporating subsurface disposal in the design must include two (2) disposal fields, each sized for the design loading and capable of being alternately loaded; in addition, a third acceptable site, large enough to install an additional replacement field, must be available. (7-1-93)

03. Sewage and Waste Disposal -- Private Sewage Disposal. No residence, place of business, or other building where persons congregate, reside, or are employed shall hereafter be constructed or altered until the owner or builder or agent thereof shall have first been issued a permit to construct sanitary disposal facilities by the Health Officer. (7-1-93)

a. This rule shall not apply to any construction on a street or alley in which there is a public sanitary sewer or to any construction within two-hundred (200) feet of a public sanitary sewer where connection with such sewer is actually made. In such case, the residence, place of business, or other building shall connect to the sewer. (7-1-93)

b. The application for a permit to construct sanitary disposal facilities shall include all applicable information as set forth in the Idaho Department of ~~*Health and Welfare*~~ Environmental Quality Rules for Individual and Subsurface Sewage Disposal Systems, and by a fee as set in the fee schedule. ~~*(7-1-93)*~~(____)

c. No drywells or drainfields deeper than four (4) feet below ground level shall be permitted for the disposal of domestic sewage waste. No sewage holding or retention tanks shall be allowed as a method of sewage disposal for residential purposes unless the operation and maintenance, including pumping of the facility, is conducted by or under the authority of a political subdivision as defined in Idaho Code. (7-1-93)

d. No dwelling or building shall be occupied until the sanitary disposal facilities have been constructed, inspected, and approved by the Health Officer or his agents. The sanitary disposal facilities shall not be covered with dirt or otherwise completed until inspected and approved. (7-1-93)

e. The determination of wastewater flow for residential structures will be based on whichever of the following two methods is greater: (____)

i. Zero point twelve (0.12) gallons per day (gpd) per square foot of habitable space or (____)

ii. The method of determining flows as outlined in IDAPA 58.01.03, "Individual/ Subsurface Sewage Disposal Rules," or their successor. (____)

f. Septic tanks serving a dwelling unit must have a minimum liquid capacity of one

thousand (1000) gallons. Tank capacity must be increased by two hundred fifty (250) gallons for each fifty (50) gpd incremental increase in flow (or portion thereof) over three hundred (300) gpd. (____)

04. Sewage and Waste Disposal -- Septage Disposal Site. It shall be unlawful for any person engaged in the business, firm or corporation to clean any septic tank, sewage pit, or other means of sewage disposal, or to operate a septage disposal site within the limits of Panhandle Health District 1 without first having been issued a registration permit by the Health Officer. (7-1-93)

a. Application shall be made upon a form provided by the Health Officer and shall be accompanied by a fee as set in the fee schedule. The registration permit shall be issued yearly and shall be revocable for failure to comply with the rules governing sewage disposal. Each permit shall be only for the unexpired portion of the calendar year for which the permit is issued, and at the end of the calendar year all permits shall expire becoming void and of no further effect. (7-1-93)

b. Any person engaged in the business of removing and transporting sewage shall comply with all applicable rules governing removal, transportation, and disposal of sewage or sewage sludge issued by the Idaho State Department of Health and Welfare and with all applicable rules hereinafter adopted. (7-1-93)

c. All applications for permits to operate septage land disposal sites must be accompanied by a plan of operations which shall include details relative to application rates and methods, access control, odor control, control of surface water runoff, cropping, and vegetation. All land disposal sites must not be closer than three-hundred (300) feet from a property line, nor closer than one quarter (l/4) mile from a residence at the time the site is established. All disposal sites must provide access for all-weather operation. All land disposal sites established after the effective date of these rules may be required to have an engineering report prepared by a licensed engineer detailing such items as site topography, site boundaries, property boundaries, direction and distance to nearest residence(s), depth, and type of soil strata, depth to ground water, direction of prevailing winds, and such other information as may be deemed necessary by the Health Officer. All required information must be submitted to and approved by the Health Officer prior to the issuance of a permit. (7-1-93)

05. Sewage and Waste Disposal -- Prohibited Conditions. (7-1-93)

a. Domestic sewage, septage, sanitary sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to remain open to the atmosphere or on the surface of the ground in such a manner so as to be a source of noxious or offensive odors, to be dangerous to health, or to be a public nuisance. (7-1-93)

b. Domestic sewage, sanitary sewage, septage, industrial sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to endanger any source or supply of drinking water, or cause damage to any public or private property. (7-1-93)

c. Raw or untreated sewage, septage, or industrial waste, or agricultural waste shall not be allowed in any body of water, water course, or any underground water drain, any storm

water drain, channel, or other surface water drain. (7-1-93)

06. **Sewage and Waste Disposal**. Expansion or Replacement of a Structure with Existing Waste Disposal System (Vested Rights). ( )

a. The square footage of habitable space will be used to determine a vested right for expansion or replacement of a structure with an existing wastewater system. ( )

b. An increase in square footage of habitable space by more than ten percent (10%) when replacing or remodeling an existing structure with an existing wastewater system will require a septic system that meets current standards. ( )

c. An application for a subsurface sewage disposal repair permit is required for all remodeling or replacement of an existing structure served by a sewage disposal system which fails to have both a septic permit and an approved final inspection. The sewage disposal system must be upgraded to current standards if possible. If this is not possible, the sewage disposal system must be upgraded to the best possible system given the constraints of the property. The remodeled or replacement structure will be limited to no more than one hundred ten percent (110%) of the original structure's square footage of habitable space. An alternative system may be required. ( )

d. If a system has ceased to receive wastewater for one year or more, the system is considered abandoned. The abandoned site must be inspected to determine if it is in compliance with current regulations. If system is in compliance with current regulations, it can be used for the current approved habitable space. If system is not in compliance with current regulations, a repair permit will be required, and the system must be upgraded to current standards if possible. If current standards cannot be met, the best possible system given the constraints of the property must be installed. This may require the use of an alternative system. Once the system has been upgraded, it can be connected to. If the upgrade cannot meet current standards, the dwelling will be limited to no more than one hundred ten percent (110%) of the current approved habitable space. ( )

07. **Sewage and Waste Disposal**. Authorization to Connect to an Installed System. ( )

a. This applies to connection to an approved drainfield installation that has never received wastewater flows. ( )

b. Application must be made, and an authorization to connect permit issued, to determine that the site has not been compromised and continues to meet the standards under which the original permit was issued. A fee for such inspection may be set by the Board. From July 1, 2007, and thereafter, no permit shall be issued for a septic system separate from a concurrent request for a permit to establish a specific use and structure to be served by the requested septic system. ( )

101. -- 109. (RESERVED).

110. SEWAGE DISPOSAL ON THE RATHDRUM PRAIRIE IN KOOTENAI COUNTY, IDAHO.
The Board has determined that extensive use of subsurface wastewater disposal on the Rathdrum Prairie presents a threat to the public health by contamination of the Rathdrum Aquifer, which is a drinking water source. It is the intent of the Board to adopt rules to govern subsurface sewage disposal on the Rathdrum Prairie. (7-1-93)

01. Title. These rules, within this Section, shall be known and cited as the "Rathdrum Prairie Sewage Disposal Rules". (7-1-93)

02. Scope. The provisions of this Section shall apply to subsurface sewage disposal systems installed on the Rathdrum Prairie. (7-1-93)

03. Definitions. The following definitions shall apply to the Rathdrum Prairie sections of these rules. (7-1-93)

a. Sewage Loading. The total liquid volume of sewage produced on any given parcel of land and expressed as gallons/day. (7-1-93)

b. Dwelling Equivalent. The total sewage loading from a single family dwelling. When applied to structures or facilities other than housing units, a dwelling equivalent shall be equal to two-hundred and fifty (250) gallons per day or shall be equal to twenty (20) persons using a non-residential facility on forty (40) hour per week basis, with no wastewater generation except from restrooms. (7-1-93)

c. Rathdrum Prairie. That area of land situated in Kootenai County and more particularly defined by the USGS map describing the boundaries of the Rathdrum Prairie Aquifer identified and designated under the authority of Section l424(e) of the Safe Drinking Water Act (PL 93-523) (Federal Register, Vol. 43, No. 28 -Thursday, February 9, l978). (7-1-93)

d. Approved Subdivision. A legally platted parcel of land that has been signed and approved by the Panhandle Health District 1 as meeting the requirements of the Code. (7-1-93)

e. Sewage Management Plan. A method of action, procedure, or arrangement approved by the Panhandle Health District 1 describing how collection, treatment, and disposal of sewage shall be addressed within the boundaries of a political subdivision and shall include a map of the area affected by the Sewage Management Plan. (7-1-93)

04. Subsurface Sewage Disposal Systems. (7-1-93)

a. All installations of subsurface sewage disposal systems must be made in compliance with the Code and the rules of the Idaho Department of ~~*Health and Welfare*~~ Environmental Quality. ~~*(7-1-93)*~~( )

b. A subsurface sewage disposal system for one (1) dwelling equivalent may be installed without requirements other than Subsection 110.04.a., if the system is on a single parcel of land of five (5) acres or larger in surface area and the total loading for that parcel does not exceed one (1) dwelling equivalent per five (5) acres, except where one (1) system is replacing

another. Every parcel of land created after December 20, 1977, except as otherwise permitted by these rules, shall maintain the dwelling equivalent(s) allowed for the original parcel of land. (7-1-93)

c. No subsurface sewage disposal system shall be installed on any parcel of land of less than (5) five acres in surface area except under the following conditions: (7-1-93)

i. The parcel of land is located within the boundaries of a public sewer district or municipality where the governing board has adopted a Sewage Management Plan approved by the Board which will result in the construction and operation of, or connection to, a central sewage treatment plant. The Sewage Management Plan area must be entirely within the boundaries of the municipality, and the Sewage Management Plan must include a map delineating the boundaries of the Sewage Management Plan Area; (7-1-93)

ii. Parcels of land less than five (5) acres in size and acquired or established prior to December 20, 1977, will be permitted for a subsurface sewage disposal system for a single-dwelling equivalent, provided such parcels meet all other rules governing individual and subsurface sewage disposal systems; or (7-1-93)

iii. Where one (1) subsurface sewage disposal system is replacing another with no increase in sewage loading. (7-1-93)

d. On all developments subject to the provisions of Subsection 110.04.c.iii., the subsurface sewage disposal system shall have the dry or wet sewer system with necessary laterals installed within the development. All installations shall be done in coordination with local government planning, and approved by the state Department of Environmental Quality where applicable. (7-1-93)

e. Upon notification by the Health Officer the owner of any parcel of land utilizing a subsurface sewage disposal system shall disconnect such system from any buildings on his parcel of land and shall connect the building sewer from the buildings to a collection and treatment system whenever it becomes available for service to his parcel. (7-1-93)

111. -- 199. (RESERVED).

200. OPEN WATER PROTECTION.

01. Boats and Houseboats. (7-1-93)

a. It is unlawful for any boat, motorboat, floathouse, sailboat, or any other kind of boat containing wastewater facilities to be on the waters of any stream, river, or lake in Panhandle Health District 1 unless such wastewater facilities shall be sealed to prevent a discharge into any waters. The method of sealing such wastewater facilities shall be subject to the approval of Panhandle Health District 1. (7-1-93)

b. Any person authorized by the Health Officer or any law enforcement person may stop and board any boat on the said waters and examine the wastewater facilities on such boats to see that such facilities are properly closed and sealed. (7-1-93)

c. It shall be unlawful for any person to throw overboard, dump, or otherwise dispose of or discharge, or cause, permit, or suffer to be discharged, any garbage, refuse, rubbish, waste, or sewage from any boat into or upon the waters of any stream, river, lake, or other body of water within the boundaries of Panhandle Health District 1. (7-1-93)

d. If any watercraft located upon the waters of this District is found to have a marine toilet which is not in compliance with the requirements of this section, the Health Officer shall have the following alternative or cumulative powers to: (7-1-93)

i. Cause the marine toilet to be locked and sealed to prevent usage; (7-1-93)

ii. Require such watercraft to be removed from the waters of Panhandle Health District 1 until the marine toilets are made to conform with the requirements of this Code. (7-1-93)

02. Public and Private Marinas. (7-1-93)

a. Any marinas, whether public or private, providing moorage for vessels equipped with on-board wastewater facilities shall provide sewage waste disposal facilities. These facilities shall consist of a pump station that is capable of adequately cleaning waste retention tanks on the largest boat that could reasonably use the moorage. Such plans must be approved by the Department of ~~*Health and Welfare*~~ Environmental Quality. ~~*(7-1-93)*~~( )

b. All marinas, whether public or private, must provide shore-based toilet facilities for their users. (7-1-93)

03. Floathouses. (7-1-93)

a. All floathouses must have approved wastewater facilities. (7-1-93)

b. All discharges from all floathouses, whether old or new, regardless of source, are prohibited. (7-1-93)

c. All floathouses must obtain a sewage permit from Panhandle Health District 1. (7-1-93)

d. The cost of the permit shall be set in the fee schedule. (7-1-93)

201. -- 299. (RESERVED).

300. LAND QUALITY CONTROL.

01. Solid Waste Collection. It shall be unlawful for any person, private franchisee, or contract collector haulers to engage in the business of collection, transporting, hauling, or conveying any refuse over the roads, highways, streets, or alleys of Panhandle Health District 1, or to dump or dispose of the same unless and until each person obtains an annual permit from Panhandle Health District 1. (7-1-93)

02. Animals and Fowl. (7-1-93)

a. Every pen, yard, kennel, coop, warren, stable, or other enclosure or structure wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odor. (7-1-93)

b. No manure shall be allowed to accumulate such that it will be a source of flies or fly breeding, or a source of noxious or offensive odors, dangerous to health, or an unhealthy nuisance. (7-1-93)

c. No person owning or controlling the possession of horses, mules, cattle, sheep, goats, hogs, or other animals shall willfully or negligently keep or maintain such animal(s) in enclosures or permit such animal regularly to graze so as to constitute a public health hazard and/or a hazard to water quality. (7-1-93)

03. Subdivisions. (7-1-93)

a. All plats as defined in Title 50, Chapter 13, Idaho Code or local subdivision ordinance, shall bear a sanitary restriction in compliance with Sections 50-1326 to 50-1329, Idaho Code. The Health Officer shall be the delegate of the State Board of ~~*Health and Welfare*~~ Environmental Quality authorized to provide the certificate required in Section 50-1326, Idaho Code. ~~*(7-1-93)*~~(____)

b. Every person or corporation intending to file any plat with the office of any County Recorder in the District shall first present a copy of the proposed plat to the Health Officer and shall submit a written application for a permit, accompanied by fee as set in the fee schedule. Said application shall state the proposed method of water supply and sewage disposal for each site intended for sale in said plat. The Health Officer may require such additional information as he feels necessary to determine whether the sanitary restriction is satisfied. (7-1-93)

c. The Health Officer may require that a plat be served by a public water or sewer system prior to providing a certificate of approval in accordance with Section 50-1325, Idaho Code. (7-1-93)

d. In geographic locations where the cost of sewer facilities is presently economically prohibitive, and apparently will remain economically prohibitive during the next ten (10) years, the Health Officer may issue a certificate of approval when the following conditions are satisfied: (7-1-93)

i. Soil studies, such as a study of test borings, indicate that proper treatment and disposal can be achieved as determined by the Health Officer; (7-1-93)

ii. Groundwater, even under the most extreme conditions, will not be closer than six (6) feet from the ground surface; (7-1-93)

iii. The sewage disposal area has not been filled with more than two (2) feet of material within two (2) years of the date when the permit is requested; (7-1-93)

iv. At least two (2) drainfield systems can be provided within each lot. (7-1-93)

e. Nothing in this section shall be deemed to waive or modify in any respect any of the other rules of this Code. Approval of a plat shall not bar or stop the Health Officer at any later time from enforcing any of the rules of this Code. (7-1-93)

f. All plats shall bear the signature of the Health Officer or his representative before filing. (7-1-93)

04. Vector Control. The Health Officer may require the control or eradication of any rodent, insect, or other arthropod on public or private property which is known to be a vector of human disease when the vector is present in sufficient numbers to represent a health hazard or public nuisance. (7-1-93)

301. -- 399. (RESERVED).

400. CRITICAL MATERIALS AT FIXED FACILITIES ON THE RATHDRUM PRAIRIE IN KOOTENAI COUNTY, IDAHO.

01. Purpose and Intent. The purpose and intent of this section is to provide agencies that are currently involved with emergency planning and emergency response duties and businesses with duties to report their handling of chemicals and other potentially hazardous materials, with a mechanism to meet the mandate of existing rules by facilitating channels of communication. It is also intended to aid in protection of the Rathdrum Prairie Aquifer in Kootenai County, designated as a sole source aquifer by the United States of America, from potential sources of contamination from materials handling and storage at facilities located over or adjacent to the Aquifer. The rules strive to achieve such protection through proper use of secondary containment systems at Fixed Facilities that use, store, manufacture or handle Critical Materials. Reporting these chemicals to the concerned agencies will facilitate coordination among industry, government agencies and response personnel so that they may more successfully meet the requirements of the following: (7-1-93)

a. Title III of the Superfund Amendments and Reauthorization Act of l986 (SARA III). (7-1-93)

b. ~~*Article 80 of*~~ The ~~*Uniform*~~ International Fire Code~~ *(UFC)*~~. ~~*(7-1-93)*~~(____)

c. ~~*Chapter 9 of*~~ The ~~*Uniform*~~ International Building Code~~ *(UBC)*~~. ~~*(7-1-93)*~~(____)

d. Local building, planning and zoning codes applicable to lands which overlie the Aquifer. (7-1-93)

e. Any applicable rules administered by any other state, federal or local agency which has jurisdiction over matters related to Critical Materials. (7-1-93)

02. Definitions. The following terms shall be construed throughout this Section in a manner consistent with the following definitions: (7-1-93)

a. Container. Any vessel used to hold critical materials. A single container is one not connected to any other container by way of valves, piping, etc. (7-1-93)

b. Critical Material. Any liquid, semi-liquid, flowable, or water soluble solid that is listed on the most current Superfund Amendments and Reauthorization Act, Title III (SARA III) List of Lists published by the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C. or is required by the U.S. Occupational Safety and Health Administration to have a material safety data sheet (MSDS). (7-1-93)

c. Critical Materials Compliance Certificate (CMCC). A certificate indicating compliance with the reporting and secondary containment requirements of this rule. (7-1-93)

d. Critical Materials Use Activity. Any undertaking that involves the use, storage, manufacture or handling of Critical Materials at a Fixed Facility above the secondary containment quantity set forth in this rule, or incorporated into this rule by reference. (7-1-93)

e. Director. The Director of Panhandle Health District 1 or his designee. (7-1-93)

f. Fixed Facility. Any established land use, building, dwelling, structure or site upon which or wherein a Critical Material Use Activity is conducted. (7-1-93)

g. Key Box. A durable, locked box that holds keys firefighters or other emergency personnel may use to gain entry into a structure. The key box shall be a type approved by the local fire chief pursuant to Section 10.209 of the Uniform Fire Code. (7-1-93)

h. Local Emergency Planning Committee (LEPC). A standing committee established by the Office of the Governor through the State Emergency Response Commission (SERC) to fulfill Emergency Planning and Community Right to Know requirements pursuant to SARA III. (7-1-93)

i. Material Safety Data Sheets (MSDS). Documentation required by OSHA to provide a description of the characteristics and potential hazards of a wide range of substances that are potentially Critical Materials. (7-1-93)

j. NFPA 704. The National Fire Protection Association's placarding system used to identify the health hazard, flammability, reactivity and potential to react with water of a particular substance. (7-1-93)

k. Secondary Containment Quantity. The quantity of a Critical Material that requires compliance with this rule. For those Critical Materials specifically listed in the SARA III List of Lists (or as otherwise noted) the following quantities of qualifying substances shall be subject to this rule: (7-1-93)

i. SARA Section 302 Extremely Hazardous Substances - ten (10) pounds in the aggregate, exclusive of solvent or other medium or, one hundred (100) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

ii. CERCLA Hazardous Substances (listed in 40 CFR 302, Table 302.4) - one hundred (100) pounds in the aggregate, exclusive of solvent or other medium or, one thousand (1000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

iii. SARA Section 313 Toxic Chemicals - one hundred (100) pounds in the aggregate, exclusive of solvent or other medium or, one thousand (1000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

iv. SARA Section 311 and 312 Chemicals (Not listed in the List of Lists) for which OSHA MSDS must be developed pursuant to OSHA Hazard Communication Standards - five thousand (5000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

l. Secondary Containment System. Site improvements and/or development criteria that are designed to isolate and prevent Critical Materials from entering the soil or surface or ground waters. (7-1-93)

m. Rathdrum Prairie Aquifer (Aquifer). The underground water source identified and designated under the authority of Section l424(e) of the Safe Drinking Water Act (PL 93- 523) (Federal Register, Vol. 43, No. 28 - Thursday, February 9, l978). (7-1-93)

03. Applicability. (7-1-93)

a. This rule shall apply to any person, firm, corporation, or government agency owning, operating, or proposing to locate, establish, or operate a Fixed Facility over the Aquifer or within a recognized Aquifer recharge area in Kootenai County, Idaho. Any Fixed Facility so located shall comply with the requirements of this rule prior to initiation of operation or engaging in any Critical Materials Use Activity, if established after the effective date of this rule. Fixed Facilities in operation or engaging in Critical Materials Use Activity on or before September 18, 1990 shall attain compliance by the threshold dates established herein. Every owner or operator of a Fixed Facility shall be required to show compliance with this rule by obtaining a Critical Materials Compliance Certificate appropriate for current operations. (7-1-93)

b. The following activities shall require a new application to the Panhandle Health District 1 to determine compliance with this rule: (7-1-93)

i. Establishing a new use that ~~*would*~~ could qualify as a Fixed Facility. ~~*(7-1-93)*~~(____)

ii. Remodeling, operating changes, or expansion of an existing Fixed Facility which would modify the type or quantity of Critical Materials Use Activity. (7-1-93)

iii. Changes in the location or method of use, storage, manufacture or handling of Critical Materials in any Fixed Facility. (7-1-93)

iv. A change in ownership or addition of new Critical Materials meeting the quantity thresholds established by this rule at a Fixed Facility. (7-1-93)

c. Any CMCC granted is specific to that action and the application filed therefore. Subsequent actions, meeting the criteria set by Subsection 400.03.b., shall require separate plan

reviews and approvals to obtain compliance. (7-1-93)

d. Fixed Facilities in existence prior to September 18, 1990, shall comply with reporting requirements established herein on or before one (1) year from September 18, 1990, and shall implement secondary containment systems, on or before three (3) years from September 18, 1990. Upon proper showing by an applicant that good cause exists, the director may authorize a compliance agreement which allows the applicant up to one (1) additional year to install secondary containment systems. (7-1-93)

e. All businesses over the Rathdrum Prairie Aquifer in Kootenai County are subject to inspection in order to determine if they are governed by this rule. ( )

04. Application Requirements of Fixed Facilities Engaged in Critical Materials Use Activities. Each applicant for a Critical Materials Compliance Certificate must provide: (7-1-93)

a. Sufficient information to allow the Director to determine the type, quantity, and physical state of all Critical Materials that are used, stored, manufactured, or handled at the Fixed Facility location. The Director may require the applicant to provide a complete list of Critical Materials present at the Fixed Facility. (7-1-93)

b. Sufficient information about the Fixed Facility to allow classification in accordance with the Standard Industrial Classification system of the U.S. Department of Commerce. (7-1-93)

c. Building plans and site development drawings showing compliance with the secondary containment requirements established by this rule. Such plans shall also provide confirmation that the secondary containment methods are compatible with the materials to be contained and that Critical Materials at the Fixed Facility are isolated from storm water or other surface waters on the site. The Director may require that any such plans be certified by a licensed engineer. The required building and/or site plans shall show at least the following: (7-1-93)

i. Location of Critical Materials in buildings and other designated site areas. (7-1-93)

ii. Location of Key Box if required by the local fire chief. (7-1-93)

iii. Location of NFPA 704 placards if required by the local fire chief. (7-1-93)

d. Proof of contact and resultant acknowledgment from the agencies named below which have codes, standards, and/or rules which must be met by the applicant with respect to handling of Critical Materials. The Director will designate the agencies needing contact for each Fixed Facility based upon information provided by the applicant. (7-1-93)

i. Local Fire Department. (7-1-93)

ii. Local Emergency Planning Committee. (7-1-93)

iii. Kootenai County Department of Planning and Zoning. (7-1-93)

iv. Kootenai County Building Department. (7-1-93)

v. Applicable City Building Department. (7-1-93)

vi. Applicable City Planning and Zoning Department. (7-1-93)

vii. Bureau of Pesticides, Department of Agriculture. (7-1-93)

ix. Department of Environmental Quality. (7-1-93)

x. Idaho Department of Water Resources. (7-1-93)

e. An opportunity for Panhandle Health District 1 to perform an inspection to assure compliance with secondary containment criteria previously approved through the plan review. If approved, and the agency review and reporting checklist (Subsection 400.04.d.) has been completed, a CMCC will be issued. The Director may delegate site inspection duties to officials of a cooperating agency. (7-1-93)

f. Payment of the review fee for CMCC issuance established by Resolution of the Board in order to reimburse costs of administering the Critical Materials program. (7-1-93)

05. Performance Standards for Fixed Facilities. Each Fixed Facility, as defined in this rule, shall conform to the following performance standards: (7-1-93)

a. Shall construct and maintain a secondary containment system for all Critical Materials. Said secondary containment system shall be designed to prevent infiltration of any Critical Materials into the ground in the event that they are released from their original storage containers. (7-1-93)

b. The secondary containment system and methods must be non-reactive and resistant to the materials to be contained and must isolate the Critical Materials at the Fixed Facility from storm water, other surface waters on the site, and from reactive critical materials present in the same Fixed Facility. (7-1-93)

c. Secondary containment systems must be sized to contain at least one-hundred and ten percent (110%) of the volume of the largest container, or ten percent (10%) of the aggregate volume of all containers, whichever is greater, in any containment area within a Fixed Facility. (7-1-93)

d. The owner or operator of any Fixed Facility shall report the presence of any Critical Materials Use Activities to the responsible local, state, and federal agencies as required by statutes, rules, and provisions of this rule. (7-1-93)

e. Any spilling, leaking, emitting, discharging, escaping, or leaching of any Critical Material into the secondary containment system or the environment must be reported to Panhandle Health District 1 or the local fire department immediately upon discovery of the release. (7-1-93)

f. Should conflict arise among the applications of local, state rules, and federal regulations regarding Critical Materials Use Activities, the rule that provides the greatest degree of protection to the Aquifer shall prevail, except where legal preemption of regulatory authority by state or federal agencies may require application of a different standard of protection. (7-1-93)

g. Each Fixed Facility shall be subject to biennial inspection to verify continued compliance with these rules. A fee for such inspection may be set by the Board. ( )

06. Violation. Any owner or operator of a Fixed Facility shall be deemed to have violated this rule if: (7-1-93)

a. A Fixed Facility is operated or if Critical Materials Use Activities are conducted on any site without first procuring a Critical Materials Compliance Certificate or if changes are made to Critical Materials Use Activities at a Fixed Facility as set forth in Section 400.03.b. without reapplying for a CMCC for the Fixed Facility. (7-1-93)

b. An owner or operator of a Fixed Facility submits knowingly false or incomplete reports to the Panhandle Health District or other responsible agencies or officials concerning the nature or quantity of Critical Materials present at a Fixed Facility governed by this rule. (7-1-93)

c. An owner or operator fails to implement or maintain secondary containment of Critical Materials at a Fixed Facility as required by this rule. (7-1-93)

d. An owner or operator fails to comply with time and reporting standards for any Critical Materials Use Activities or fails to report any discharge of Critical Materials into the secondary containment system required by this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

511. CONTAMINANT MANAGEMENT RULES IN THE BUNKER HILL SUPERFUND SITE OPERABLE UNIT #3 INSTITUTIONAL CONTROLS ADMINISTRATIVE AREA, SHOSHONE AND KOOTENAI COUNTIES, IDAHO

01. Purpose. The purpose of these Rules is to ensure that activities associated with excavation and grading such as infrastructure development and maintenance; building construction and renovation; and land development, redevelopment and/or modification within the Institutional Controls Administrative Area of the Bunker Hill Superfund Site Operable Unit #3 (OU-3) provide for the construction and maintenance of Contaminant Barriers and implementation of other Contaminant management requirements to preclude the release and migration of Contaminants as necessary to protect the public health and the environment. It is imperative that current and future development and construction activities proceed in a manner which minimizes the release of Contaminants into the environment to minimize exposure to Area residents, communities, to workers involved in Area project work, and to environmental receptors. Further, it is the purpose of these Rules to complement existing land use regulations

and permitting processes, and to provide a screening process to determine whether proposed activities are subject to these Rules. These Rules will rely upon procedures and provisions applicable to the Institutional Controls Program set forth in Section 500 of these rules. Differences identified in Sections 511 and 512 of these rules, shall be deemed applicable only to the lands encompassed by OU-3. ( )

02. **Implementation Policy and Standards**. Implementation policy and standards which pertain to the interpretation and enforcement of these Rules or to the documentation of compliance with these Rules have been developed by PHD and are available for inspection and/or copying at cost at the PHD office, 114 West Riverside Avenue, Kellogg, Idaho. ( )

03. **Administrative Appeals**. Persons may be entitled to appeal final PHD actions authorized under this chapter, pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

04. **Definitions**. The following terms shall be construed throughout Sections 511 and 512 of these rules, in a manner consistent with these definitions: ( )

a. Agricultural Land. Land used for pasturing animals or for cultivation and production of agricultural crops including conservation reserve activities. ( )

b. Applicant. Any person, contractor, public utility, government or other entity that is required to apply for an Institutional Controls Program (ICP) Permit. ( )

c. Access Restrictions. Physical barriers such as fences, barricades, curbs, barrier rocks, trenches, etc. that provide restricted access by vehicles, pedestrians, and animals to contaminated areas. ( )

d. Barrier. Any physical structure, material or mechanism which acts to break the pathway between Contaminants and human receptors, including but not limited to soil, crushed aggregate/gravel, asphalt and Portland cement concrete, fences, access restrictions, or other structure or covering which separates Contaminants from contact with people or keeps Contaminants in place. ( )

e. Board. The Board of Health of the Idaho Public Health District No. 1. ( )

f. B.O.P. Barrier Option Plan, a plan which will be provided by an Applicant, when required, that sets forth the location and type of Barrier which the Applicant intends to construct as part of the permitted work. ( )

g. Building Construction. Construction activity to be performed for any new structure involving disturbance of soil in excess of one cubic yard. ( )

h. Building Renovation. Construction activity to be performed on any existing structure involving ceiling or insulation removal, work in dirt crawl spaces or basements, or disturbance of soil in excess of one cubic yard. ( )

i. CERCLA. Comprehensive Environmental Response, Compensation, and Liability

Act. ( )

j. Commercial Property. Retail, wholesale and secondhand businesses; public and common use areas; public buildings; and undeveloped properties accessed by a maintained road or street and zoned for commercial development as of the date of promulgation of these Rules. ( )

i. Type I. Commercial Property predominantly used by Sensitive Populations (e.g. daycare facilities, municipal parks, playgrounds, etc.) ( )

ii. Type II. All other Commercial Property. ( )

k. Contaminants. Soil or other material containing, or likely to contain, concentrations of lead equal to or greater than one thousand (1000) ppm or concentrations of arsenic equal to or greater than one hunderd (100) ppm. ( )

l. Developed Recreation Area. Commercial and public recreation areas containing constructed features such as boat ramps, picnic areas, and campgrounds outside the city limits of incorporated communities in the Coeur d'Alene River corridor as defined in Subsection 512.0.5.s. of these rules. The Developed Recreation Areas of the Trail of the Coeur d'Alenes includes all constructed trail surfaces, stop and views, oases (rest stops) and trailheads, exclusive of all undeveloped areas within the trail right of way. ( )

m. Director. The Director of the Idaho Public Health District No. 1. ( )

n. Disposal. The placement of Contaminants into an authorized repository. ( )

o. Environmental Office. PHD office in Kellogg, ID. ( )

p. Excavation – Any digging, breaching or disruption of soil not including cultivation of Agricultural Lands and gardens or mining activities regulated under other state and federal programs which may release or expose Contaminants to the environment. ( )

q. Health Officer. The Director or designee. ( )

r. Hearing Officer. An attorney, engineer or other professional trained in conducting hearings, appointed by the Board for purposes of conducting hearings authorized by these Rules. ( )

s. Institutional Controls Administrative Area. The Area designated by the Administrative Area Map in Appendix 2 which includes areas of mining, milling, and smelting related contamination in the South Fork of the Coeur d'Alene River corridor from its headwaters to the confluence with the North Fork Coeur d'Alene River and from the confluence of the North and South Fork to the mouth of the River and its confluence with Coeur d'Alene Lake including adjacent floodplains, tributaries, and fill areas. The Area also includes the Trail of the Coeur d'Alenes inside and outside the administrative boundary indicated on the map in Appendix 2 except that portion within the exterior boundaries of the Coeur d'Alene Indian Reservation. The Area does not include any area within OU-1 and OU-2 (Box) which has a separate ICP, or any

other area excluded under this rule. The Area also includes areas in the Coeur d'Alene River corridor, as defined above, outside the administrative boundary indicated on the map in Appendix 2 where testing has verified that Contaminants related to mining, milling, and smelting have come to lie and remediation is required. ( )

t. ICP. The Institutional Controls Program for the Institutional Controls Administrative Area as defined in Subsection 511.05.s. of these rules. ( )

u. ICP Permit. The Contaminant management authorization for projects subject to these Rules. ( )

v. Infrastructure. Facilities such as trails, roads, streets, highways, bridges; storm water, drinking water, and wastewater systems; flood prevention systems including dikes and levees; and utilities including electrical power and natural gas systems. ( )

w. Large Project. A project where one cubic yard or more of soil containing Contaminants is disturbed or removed. Large Projects include, but are not limited to, infrastructure construction and maintenance, building construction, renovation, and demolition, land development or any change in the use of land that may result in the release or migration of Contaminants. ( )

x. Owner. Any person, partnership, or corporation having ownership, title, or dominion over property for which an ICP permit is required. ( )

y. PHD. The Idaho Public Health District No. 1 (also the Panhandle Health District). ( )

z. PUD. Planned Unit Development. ( )

aa. Record of Compliance. The record maintained by the PHD pursuant to Section 523 of these rules for Small Projects. ( )

bb. Release. Any excavation, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, dumping, or disposing of Contaminants into the environment. ( )

cc. Residential Property. Property used by private individuals or families as a residence, and undeveloped properties accessed by a maintained road or street and zoned for residential development as of the date of promulgation of these Rules. ( )

dd. Sensitive Populations. Pregnant women and children up to twelve (12) years old. ( )

ee. Small Project. A project where less than one (1) cubic yard of soil containing Contaminants is disturbed or interior work that is not Building Renovation. ( )

ff. Trail of the Coeur d'Alenes. All Developed Recreation Areas and undeveloped areas within the former Union Pacific Railroad Mullan and Wallace Branch right of way. ( )

gg. Working day. Monday through Friday, but shall not include any legal holiday recognized as such by the State of Idaho. ( )

05. **Statement of Intent**. It is the intent of the PHD to work with local governments, the State of Idaho, the United States Environmental Protection Agency, Federal Land Management Agencies (Bureau of Land Management, USDA Forest Service), Coeur d'Alene Tribe, and private parties in managing Contaminants within the regulated Institutional Controls Administrative Area by way of an ICP. These Rules establish standards for Barrier construction and maintenance, and other Contaminant management practices. These Rules do not address financial liability for Contaminant management resulting from a failure of a CERCLA remedy due to a natural disaster. These Rules govern management of Contaminants by: ( )

a. Requiring ICP permits and requiring barriers for certain construction and excavation activities; ( )

b. Licensing contractors, utilities, and state and local government entities which may disrupt or construct Barriers, or otherwise disturb Contaminants; ( )

c. Adopting performance standards; ( )

d. Inspecting for project compliance as required; ( )

e. Regulating the movement and disposal of Contaminants; ( )

f. Making it unlawful to knowingly disrupt a barrier in a fashion likely to expose persons or the environment to Contaminants; ( )

g. Maintaining records of ICP activities. ( )

06. **Additional Provisions by PHD**. In conjunction with these Rules it is the intent of the PHD to provide, depending on project size and complexity and at the discretion of PHD: ( )

a. Technical assistance and soil testing; ( )

b. Health screening and intervention; ( )

c. Readily available repositories for disposal of Contaminants; ( )

d. Clean material to restore Barriers for Small Projects; ( )

e. Disposal containers for Small Projects to assist in removal, transportation and disposal of contaminated soil; ( )

f. Health and safety information and education to licensees and the public; ( )

g. Sheet plastic, crushed aggregate and gravel, or other items as appropriate; ( )

h. A database tracking system to assist the public, lenders, and prospective purchasers of property within the Institutional Controls Administrative Area; ( )

i. Guidelines for managing Contaminants. ( )

512. APPLICATION OF REGULATIONS; INSTITUTIONAL CONTROLS ADMINISTRATIVE AREA.
These Rules shall apply to the Institutional Controls Administrative Area as defined in Subsection 511.05.s. of these rules. These Rules shall not apply to the direct operations of the United States Environmental Protection Agency including directing, supervising, and inspecting project work or on lands owned or otherwise under the jurisdiction, custody and control of the Coeur d'Alene Tribe or the Federal Land Management Agencies such as the USDA Forest Service and the Bureau of Land Management. These Rules shall not apply to the Union Pacific Railroad or its contractors when conducting activities within the Trail of the Coeur d'Alenes pursuant to the requirements of the Consent Degree entered August 25, 2000 by the United States District Court for the District of Idaho (Case Nos. 91-0342 and 99-606). ( )

01. Standards Adopted. ( )

a. Except as otherwise provided in Section 512 of these rules, contaminant management is required on all properties within the Institutional Controls Administrative Area including properties that have been remediated; properties tested and scheduled for remediation; properties not yet tested; and properties testing below action levels in the top eighteen (18) inches where Large or Small Projects may disturb Contaminants below eighteen (18) inches in excess of one thousand (1000) ppm lead or one hundred (100) ppm arsenic. Contaminant management may include testing of untested areas by the Applicant; testing of deep soils (below eighteen (18) inches) by the Applicant where a project may result in deep excavations; and replacement and repair of remediation Barriers in accordance with Subsection 512.02 of these rules; or other management activities. Contaminant Management on Residential Properties and Commercial Properties existing as of the date of promulgation of these Rules and requiring remediation, but not yet remediated will not require construction of final barriers in accordance with Subsection 512.02 of these rules, by the owner, but may require dust, erosion, health and safety and temporary cap controls to prevent further migration onto lands of others. Final barrier construction will be the responsibility of the state of Idaho and United States Environmental Protection Agency if needed. Applicant performed soil testing will be conducted consistent with sampling and analytic procedures developed by PHD. ( )

b. Developed Recreation Areas with surface soil containing lead concentrations greater than seven hundred (700) ppm lead and one hundred (100) ppm arsenic shall be capped pursuant to Subsection 512.02.c. of these rules. ( )

c. Agricultural and undeveloped land within the Institutional Controls Administrative Area are exempt from these Rules unless excavation and grading activities such as soil transport off site or development by the owner or his/her agents on these lands is likely to result in the release or migration of Contaminants from these lands to adjacent non-agricultural or undeveloped areas. ( )

d. All Barriers existing or hereinafter constructed shall be maintained and protected to original construction specifications. ( )

e. No new PUD or subdivision containing concentrations of Contaminants exceeding one thousand (1000) ppm lead or one hundred (100) ppm arsenic shall be developed without Contaminant management. ( )

f. No person shall conduct, except in accordance with these Rules, any activity within the Institutional Controls Administrative Area which breaches a Barrier, may breach a Barrier, or disturbs the same, or otherwise results in a threat to public health or the environment from the migration of Contaminants through tracking on tires or vehicles, visible airborne dust, excavation, transport, disposal, renovation, demolition, or run-on or run-off from stormwater or in any other manner on properties tested and requiring remediation and on properties not yet tested within the Institutional Controls Administrative Area ( )

02. Barriers; Construction and Maintenance Required. ( )

a. The minimum Barrier construction requirements for Residential and Type I Commercial Properties are as follows: ( )

i. All soil which contains lead equal to or in excess of one thousand (1000) ppm or arsenic equal to or in excess of one hundred (100) ppm and lies within twelve (12) inches of the final grade shall be removed and replaced with replacement material meeting the requirements of Subsection 512.02.d. of these rules. ( )

ii. Any such property with unrestricted access to an adjacent property not meeting the requirements of Subsection 512.01.a. of these rules, shall restrict access to such adjacent property. ( )

b. The minimum Barrier construction requirement for Type II Commercial Properties is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage requirements. ( )

c. The minimum Barrier construction requirement for Developed Recreation Areas is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage requirements. ( )

d. All twelve (12) inch deep Barriers of soil or crushed rock/gravel required pursuant to the ICP which overlay soils having concentrations of lead equal to or greater than one thousand (1000) ppm or arsenic concentrations equal to or greater than one hundred (100) ppm shall have an underlying visual delineator at the twelve (12) inch depth. Visual delineators are not required if the soil underlying the Barrier has tested under one thousand (1000) ppm lead and one hundred (100) ppm arsenic. Cap Barriers such as Portland cement and asphalt concrete do not require delineators. ( )

e. Soil and crushed aggregate/gravel imported for barrier material shall contain less

than one hundred (100) ppm lead, thirty five (35) ppm arsenic and five (5) ppm cadmium based on average of backfill sampling results. No single sample of replacement materials shall exceed one hundred fifty (150) ppm lead or forty five (45) ppm arsenic. ( )

f. Barriers shall be maintained and repaired to original construction specifications. ( )

g. Contaminated waste material generated in the construction, maintenance and repair of Barriers shall be disposed of in designated repositories or as directed by PHD. ( )

03. ICP Permits Required. ( )

a. Permits shall be required for Large Projects and Building Renovations. ( )

b. A permit is required for a project which changes the use of a property containing Contaminants. A new Barrier or additional or more substantial Barrier may be required unless waived by the PHD. ( )

c. A single annual permit covering a specific list of projects may be obtained from the PHD by entities eligible under Section 531 of these rules, at the beginning of each year's construction season. ( )

51~~1~~3. -- 519. (RESERVED).

520. PERMIT APPLICATION AND ADMINISTRATION.

01. Application for ICP Permit. Application for an ICP Permit shall be made in writing at the Kellogg office of the District. Application shall be on forms provided by the District. (3-20-97)

02. Required Applicant Information. All Applicants shall provide the following information when applying for an ICP Permit with the District: (3-20-97)

a. Name, address and telephone number of the Applicant and the property owner. (3-20-97)

b. Location of the work and whether the work is being done on private or public property, or both. (3-20-97)

c. Description of work. The description must include methods of handling or storing, and transporting contaminated materials. A site plan may be required by the District if one has not been provided pursuant to the permit process. (3-20-97)

d. Dates work will be started and completed. (3-20-97)

e. Such other information as the District shall require. (3-20-97)

03. District Requirements for Projects. If the work is to be performed within the

jurisdiction of a city or county government which has not adopted standards and a permitting process consistent with these rules, the District may require, as appropriate for a particular project, the following: (3-20-97)

a. Large Projects: (3-20-97)

i. Name, signature, license number, seal and address of engineer, geologist, land surveyor, architect, professional planner, landscape architect, or contractor as applicable, involved in preparation of the application or any materials or documents pertaining thereto; ~~(3-20-97)~~(_____)

ii. Copies of other government authorizations, permits or permit applications (i.e. County or City) and the supporting documents and materials pertaining thereto; ~~(3-20-97)~~(_____)

iii. A key map showing location of tract with reference to surrounding properties including owners, streets and city boundaries; (3-20-97)

iv. Existing and/or proposed zoning; (3-20-97)

v. North arrow and scale; (3-20-97)

vi. Site plan showing dimensions, boundaries, existing and/or proposed structures; (3-20-97)

vii. Date of current property survey; (3-20-97)

viii. Standardized sheet size; (3-20-97)

ix. Copies of existing and/or proposed restrictions or covenants; (3-20-97)

x. List of ordinance variances required or requested (PHD or local government); (3-20-97)

xi. Requested or obtained design waivers or exceptions; (3-20-97)

xii. Payment of fee; (3-20-97)

xiii. Identification of surrounding water courses, flood plains (floodway and one hundred (100) year floodplain), wetlands, and environmentally sensitive areas on-site and within two hundred (200) feet; (3-20-97)

xiv. Soil information as required to determine levels of contamination; (3-20-97)

xv. Location and description of all existing Barriers on-site and bordering the site; (3-20-97)

xvi. Barrier Option Plan, as required; (3-20-97)

xvii. Existing rights-of-way and/or easements on and adjacent to the tract (i.e. streets, utilities); (3-20-97)

xviii. Existing and proposed contour intervals based on U.S.G.S. datum, contours to extend fifty (50) feet beyond the project site borders (additional distance may be required in the case of subdivisions, PUD's and special use permit situations), contour intervals shall be as follows: for sites with ~~grades~~ slopes of less than three percent (3%) - one (1) foot intervals; for sites with ~~grades~~ slopes of three percent (3%) to ten percent (10%) - two (2) foot intervals; for sites with ~~grades~~ slopes over ten percent (10%) - five (5) foot intervals; ~~(3-20-97)~~(____)

xix. Existing system of site drainage and of any larger tract or basin of which the site is a part; (3-20-97)

xx. Drainage calculations; (3-20-97)

xxi. Existing and proposed utility infrastructure locations; (3-20-97)

xxii. Locations of existing and/or proposed activities on-site (i.e. lawn, garden, landscaping areas, pathways, driveways, storage areas, structure locations, etc.); (3-20-97)

xxiii. Soil erosion and sedimentation control plan if surface is to be disturbed; (3-20-97)

xxiv. Dust control plan if surface is to be disturbed; (3-20-97)

xxv. Plan for transporting Contaminants, means for transportation, proposed disposal site, and proposed route; (3-20-97)

xxvi. Access control plan for construction period; (3-20-97)

xxvii. Construction schedule; (3-20-97)

xxviii. Contractor bonding information; (3-20-97)

xxix. Health and safety plan. (3-20-97)

b. Building Renovations: (3-20-97)

i. Name, signature, license number, seal and address of engineer, land surveyor, architect, professional planner, landscape architect or contractor, as applicable, involved in preparation of the application or any materials or documents pertaining thereto; ~~(3-20-97)~~(____)

ii. Type of contaminated material to be handled (i.e. soil, insulation etc.); (3-20-97)

iii. Dust control plan; (3-20-97)

iv. Access control plan; (3-20-97)

v. Worker precautions (health and safety plan); (3-20-97)

vi. Transportation information, including means, method of containment of material, and proposed disposal site; (3-20-97)

vii. Contractor bonding information; (3-20-97)

viii. Construction schedule. (3-20-97)

04. Use of Discretion on Requirements by District. The District may, at its own discretion, waive certain application requirements or information, or require additional or alternative actions or information, depending upon the type and extent of the project and conditions encountered. In no instance shall a waiver violate the intent of this rule and/or the Record of Decision for the relevant Operable Unit. ~~(3-20-97)~~( )

05. Site Inspection or Waiver When Permit Required. Work which requires a permit shall not commence until a site inspection has been made or waived by the District and a permit has been issued. (3-20-97)

06. Time Specifications. The permit shall provide that all work be completed and the permit shall be void if work is not commenced and completed within the times specified for the type and kind of permit as approved by Resolution of the Board. An extension of time may be granted by the District upon a showing of good cause. (3-20-97)

07. Other Inspections and Requirements. All permits granted pursuant to this Rule remain subject to such other inspections and requirements prescribed by state or local governments. (3-20-97)

08. Work Involving Public Right-of-Way. If the permit involves work within any public right-of-way, the appropriate agencies ~~will~~ must be notified of the work by the entity receiving the permit. ~~(3-20-97)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

522. PERMIT REVOCATION OR STOP WORK ORDER.
Any Permit may be revoked or a Stop Work Order may be issued, without notice by the District, for non-compliance with or violation of any of the provisions of this chapter or any requirement or limitation of the Permit. If a Permit is revoked, the District may take such steps as are necessary to eliminate any danger from contamination, including completion of work by the District. The Applicant, contractor and/or Owner may be required to pay all costs and expenses for abatement of any danger and/or completion of the project, including legal fees incurred by the District to obtain compliance. The District will endeavor to provide written notice, but reserves the right to act summarily to protect public health and the environment. ~~(3-20-97)~~( )

523. RECORD OF COMPLIANCE.
A Record of Compliance for Small Projects which documents compliance with the performance

standards established by these rules will be entered into the database tracking system based upon an inspection requested of PHD by the property owner or tenant. The Record signifies the property owner or tenant was informed of and provided with applicable performance standards and guidelines and materially complied with the same. ~~(3-20-97)~~(____)

524. -- 529. (RESERVED).

530. CONTRACTOR LICENSING.

01. License Required. Any contractor performing Large Projects, Building Renovation or transportation or disposal of Contaminants within the Site or the Institutional Controls Administrative Area which is likely to expose the contractor, workers or others to Contaminants, must be licensed by the District. There will be no charge for a contractor's license. It shall be unlawful for a contractor to work on a project requiring an ICP permit without a current contractor's license issued by PHD. A contractor's license will not be required of an owner working on his or her own property. ~~(3-20-97)~~(____)

02. Training. In order to obtain a contractor's license from the District, the Contractor must have those supervisors involved in activities dealing with Contaminants participate in training approved by the District and pass an annual examination focusing on the reasons for, and methods of, controlling Contaminants. The purpose of the examination is to assure that all of the Contractor's employees are aware of and observe the procedures and standards that will protect themselves and the public from the Contaminants. The District will create and administer the test. The trained supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these rules. The District will provide training which owners and employees may participate in. (3-20-97)

03. Bonding. Any contractor whose license has been revoked by the District within the past three (3) years must, as a condition of reinstatement and maintaining the status of a licensed contractor, be bonded in the minimum amount of two-thousand dollars ($2000). Said bond shall be at least five percent (5%) of the cost of any contract the contractor is engaged in whichever is greater. Said bond shall be in a form approved by the District and must be suitable to insure payment for completion of Barrier work not completed by the Contractor. A cash deposit or other security acceptable to the District may be utilized in lieu of a bond. The District may establish a bonding program for all contractors, if deemed necessary to carry out these Rules. ~~(3-20-97)~~(____)

04. Suspension or Revocation of License. (3-20-97)

a. Upon a showing that a licensee has violated any provision of these Rules, or has violated any other health or building code within the boundaries of the Site or Institutional Controls Administrative Area, suspension or revocation of license may be imposed. Suspension may be made by any District health officer. Revocation may be made by the Director upon recommendation of the District health officer. Notification of suspension or revocation must be in writing. No suspension may be made for more than thirty (30) days without approval of the Director. Revocation of license may be made by the Director upon a showing of good cause. ~~(3-20-97)~~(____)

b. Appeal. Suspension or revocation may be appealed by the licensee to the Board in writing within thirty (30) days of receipt of notice of suspension or revocation. Appeal shall stay the suspension or revocation unless the Director makes a finding that such stay is likely to present a health risk to a person or persons. Appeals shall follow the procedures set forth in Section 020 of these rules. (3-20-97)

c. Any decision by the Board pertaining to a suspension or revocation of a license shall be made only after a licensee has been accorded an opportunity for hearing at which the licensee has a right to appear and be heard, to be represented by counsel, to testify, to present evidence, to call witnesses and to rebut any evidence presented. A transcribable recording of all such hearings shall be made and retained for at least six (6) months. Such hearing may be conducted by a hearing officer designated by the Board or by the Board itself. (3-20-97)

d. If a license is revoked, the contractor may, upon payment of any cleanup or remediation costs related to past work, reapply for reinstatement of license after one (1) year, however, a contractor whose license has been revoked may not obtain a new license under a different corporate or partnership status until this provision is satisfied. (3-20-97)

531. LICENSES FOR PUBLIC UTILITIES AND GOVERNMENT ENTITIES.
Upon a demonstration that supervisory employees of a public utility or government entity (city, county, special purpose district, or state of Idaho) have participated in an education program approved by, or provided by, the District, a utility company or government entity may receive an annual license which will allow their employees to ~~*make Excavations*~~ perform excavation and grading operations without obtaining individual ~~*Contaminant management*~~ ICP permits. This license may be granted by the District and will require that the utility comply with performance standards and all other regulations contained herein or adopted by Resolution of the Board. All supervisory employees involved in and responsible for excavation~~*s*~~ and grading operations shall have participated in a District approved education program. The trained supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these rules. The District will provide training which owners and employees may participate in. Entities licensed under this section shall maintain a log of all excavations and grading operations on a form approved by the District. Such logs ~~*will*~~ shall be forwarded to the District on a regular basis determined by the District. All licensees shall telephone the Shoshone or Kootenai County one-call locating service, as appropriate, prior to any excavation or grading operations. Licenses shall be renewed annually upon a showing that the utility or government entity has operated in compliance with this rule. This license may also be revoked as provided in ~~*the prior*~~ Subsection 530.04. ~~*(3-20-97)*~~(____)

532. -- 539. (RESERVED).

540. PERFORMANCE OF WORK.

01. Completion of Work. All work done pursuant to an ICP Permit shall be completed in a neat and workmanlike manner and so scheduled as to cause the minimum interference with traffic or public use (if applicable) and a minimum dispersal of Contaminants. (3-20-97)

02. Work Delayed by Applicant. If the work is unduly delayed by the Applicant, and

if the public interest reasonably so demands, the District shall have the authority, upon twenty-four (24) hours' written notice to the ~~*permittee*~~ Applicant, to complete the work to the extent that the Barrier is restored and any hazardous material covered or removed. The actual cost of such work by the District (including legal fees), plus fifteen percent (15%) as an overhead charge, shall be charged to and paid by, the Applicant and/or the Owner. ~~*(3-20-97)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

542. APPROVAL OF ALTERNATIVE STANDARDS.
Any person aggrieved by the substantive requirements of these rules or the performance standards, may appeal these requirements by providing a written request for approval of an alternative standard. The appeal shall be accompanied by an engineering report indicating why the appealing party should be relieved of the requirement for compliance or why the requested alternate standard is appropriate. At the Applicant's expense, the District may consult with its own engineer to confirm the applicability of these ~~*regulations*~~ rules to the proposed project. The District health officer may approve an alternate standard where such approval does not jeopardize the public welfare or existing Barriers. The decision of the District health officer shall be in writing, stating the reasons therefor~~e~~. ~~*(3-20-97)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~***544. -- 549. (RESERVED).***~~

Section 550 has been moved and renumbered to Section 901

~~***551. -- 559. (RESERVED).***~~

Section 560 has been moved and renumbered to Section 902

~~***561 -- 569. (RESERVED).***~~

~~***570. EFFECTIVE DATES.***~~

~~***01. Temporary Rule Effective Date****. The Board, finding that these rules are necessary to protect the public health, safety and welfare, passes these rules as temporary rules pursuant to section 67-5226, Idaho Code, and these rules, except as otherwise provided, shall be effective April 17, 1995.* *(3-20-97)***~~

~~***02. Other Effective Date****. Any rule applicable to licensing of contractors, public utilities and government entities shall be effective as of January 1, 1996.* *(3-20-97)***~~

5~~*71*~~44. -- 899. (RESERVED).

900. ADMINISTRATIVE PROCEDURES, EXCEPTIONS, PENALTIES~~, AND ENFORCEMENT~~.

01. Responsibility of Permit Applicant. It shall be the responsibility of any person applying for, or required to apply for, a permit required by this Code, to show affirmatively, by all reasonable means, that his undertaking complies with this Code or with any related rules, statutes, or ordinances. (7-1-93)

02. Permit Revocation. Any permit or permission, actual or implied, granted by the Health Officer or his predecessors may be revoked, for cause, by written notice sent to the permit holder or his agent. Any person, association, or corporation who continues to act under such permit or permission actual or implied, more than ten days after the sending or delivery of notice of revocation shall be presumed to be in violation of this code and subject to the penalties provided herein. (7-1-93)

03. Variance Standards. A variance may be granted only upon an affirmative showing by an applicant that ~~the~~ a unique and undue hardship is caused by a physical characteristic of a site that is not of the applicant's making and that approval of the variance would not be contrary to the public interest or to the purposes of the Code. ~~(7-1-93)~~(____)

04. Variance Procedures. (7-1-93)

a. An applicant for a variance shall obtain a Variance Application Form from Panhandle Health District 1 and, after completing the application form, shall return the application to the Environmental Office. The Variance Application shall require the applicant to provide, in addition to information required by the application form itself, the following: (7-1-93)

i. An accurate site plan showing development of the site in question, present and proposed, depicting all features relevant to the variance request. The Director, or his designee, shall identify information necessary to proper processing of the request if information other than that normally required must be supplied. The applicant shall describe the current and proposed use of the site in question. (7-1-93)

ii. A narrative statement addressing the efforts, including consideration of design alternatives, which the applicant has undertaken to comply with the rule from which a variance is sought. (7-1-93)

iii. A narrative statement explaining the nature of the hardship, if any, imposed by literal compliance with the rule in question. (7-1-93)

iv. A narrative statement explaining the effects of the requested variance on the interests of adjoining landowners and/or of the public at large. (7-1-93)

v. A narrative statement detailing what use could be made of the site in question if the requested variance were not granted. (7-1-93)

b. The completed Variance Application shall be returned to the Environmental Office

accompanied by an ~~*fifty dollar ($50)*~~ initial filing fee as established by the Board. The completed application shall be submitted to the Panhandle Health District 1 Hearing Officer who shall determine whether, on its face, it sets forth a colorable claim for a variance from the Code. If the Hearing Officer determines that the application does not set forth a colorable claim for variance, he shall return the application to the applicant with a written explanation of the action taken. Said initial determination and the accompanying explanation shall be forwarded to the Board which shall act upon the Hearing Officer's initial determination by affirming it or remanding it to the Hearing Officer for further proceedings. ~~*(7-1-93)*~~(____)

c. If the Hearing Officer determines that the application presents a colorable claim for a variance, he shall return the application to the Environmental Office with instructions to prepare a notice of public hearing concerning the requested variance. The applicant shall pay an additional processing fee ~~*of one hundred and fifty dollars ($150)*~~ if the Hearing Officer makes such a finding. Said fee may be adjusted as with all other Panhandle Health District 1 fees in accordance with a sliding scale coordinated with Federal poverty standards. (7-1-93)

d. The Environmental Office staff shall notify the applicant that his application has passed the initial screening and that the names and mailing addresses, on self-adhesive labels, of all owners of land located within three hundred (300) feet of the external boundaries of the site in question must be provided. Said names shall be provided or checked by a land title company or other business whose commercial purpose it is to provide such information. The applicant shall be solely responsible for the accuracy of such information. (7-1-93)

e. Using the mailing list provided by the applicant, notice of public hearing shall be sent by first class mail and posted on the site in question in a conspicuous manner. The Environmental Office shall maintain records verifying completion of the notification process. Mailing and posting shall be accomplished at least fifteen (15) days prior to the date of the hearing established by the Hearing Officer. (7-1-93)

f. Upon the appointed date, the Hearing Officer shall conduct a public hearing concerning the variance request. The applicant, Panhandle Health District 1 staff, interested members of the public, and public agency representatives shall be allowed to participate in such hearing. The Hearing Officer may establish time limits or other rules of procedure to expedite hearing of the request. The Hearing Officer shall establish a record of the hearing and shall see that a tape recording is made of the proceedings. Exhibits shall be identified in the record in order that they may be associated with the taped record of the hearing. (7-1-93)

g. Upon completion of the hearing and compilation of the record in each application, the Hearing officer shall prepare a recommended decision which shall be transmitted to the Board for final action. The Hearing Officer may recommend that the application be approved, be approved with conditions, or that the application be disapproved. His recommendation shall set forth facts found relevant to the decision, legal principles applicable to the recommended ruling, and conclusions drawn from the hearing process. (7-1-93)

h. At its next regular meeting, or as soon as the application can be placed upon its agenda, the Board shall consider the record compiled and the Hearing Officer's recommendation and shall decide the request without further hearing by the Board. The Board may accept the recommendation of the Hearing Officer, may reverse the recommendation, or may modify the

recommended decision for reasons to be found in the record. If the Board modifies or reverses the Hearing Officer's recommendation it shall set forth its reasons for doing so in writing with reference to parts of the compiled record or conclusions drawn therefrom. The Board may also elect to remand the request to the Hearing Officer for clarification or for further hearings to obtain information the Board deems essential. Confirmation of the Hearing Officer's recommendation may be accomplished by Board action adopting the Hearing Officer's decision as its own. Appeals from Board action may be taken in accord with provisions of Section 39-418, Idaho Code. (7-1-93)

~~***05.*** ***Penalties****. Any person, association, or corporation who shall violate provisions of this rule may be penalized as follows:* *(7-1-93)*~~

~~***a.*** *Shall be subject to a penalty as set forth in Section 39-419, Idaho Code, or as otherwise provided by Section 39-117, Idaho Code. Each day of violation of a provision of this rule shall constitute a separate offense subject to cumulative punishment.* *(7-1-93)*~~

~~***b.*** *May be subject to a civil court judgment enjoining violation of the rule and such civil penalties, costs, and fees as may be necessary to compel compliance.* *(7-1-93)*~~

~~550~~901.APPEAL TO THE BOARD.
Any person, association, public or private agency or corporation aggrieved by application of a provision of these rules or by a decision of the Health Officer or the District may appeal to the Board pursuant to the provisions of Chapter 52, Title 67, and Chapter 4, Title 39, Idaho Code, and the following procedures: (3-20-97)

01. Filing Appeal. Any potentially affected party seeking relief under these rules must file such appeal or request to the Board in writing at the ~~*Kellogg*~~ office of the District in the county where regulated activity is undertaken within thirty (30) days of the Health Officer's or District's decision, or of such other action from which relief is sought. The appeal must set forth the reasons for appeal and request a hearing, if one is desired. If a hearing is not requested, the decision will be made based on the records of the District, the information in the appeal or request for relief, and any other written information filed with the Board by the Health Officer or District. A copy of any document filed with the Board shall be sent to the other party immediately.
~~*(3-20-97)*~~(____)

02. Appeals Forwarded to Hearing Officer. All appeals shall be forwarded to a Hearing Officer for evaluation. If a hearing has been requested, the Hearing Officer shall designate a time and place for hearing and provide Notice to the appealing party and the Health Officer or District. (3-20-97)

03. Hearings. If hearing is requested, the Hearing Officer shall, upon the appointed date for hearing, conduct a hearing concerning the appeal or request for relief. The appealing party, District staff, interested members of the public and public agency representatives shall be allowed to participate in such hearing. The Hearing Officer may establish time limits or other rules of procedure to expedite hearing of the request. The Hearing Officer shall establish a record of the hearing and shall see that a tape recording is made of the proceedings. Exhibits shall be identified in the record. (3-20-97)

04. Completion of Hearing and Compilation of Record. Upon completion of the hearing and compilation of the record, the Hearing Officer shall prepare a recommended decision which shall be transmitted to the Board for final action. The Hearing Officer's recommendation shall set forth facts found relevant to the decision, legal principles applicable to the recommended ruling, and conclusions drawn from the hearing process. (3-20-97)

05. Board Review of Hearing Recommendations. At its next regular meeting, or as soon as the recommendation can be placed upon its agenda, the Board shall consider the record compiled and the Hearing Officer's recommendation and shall decide the request without further hearing from the Board. The Board may accept the recommendation of the Hearing Officer, reverse the recommendation, or may modify the recommended decision for reasons found in the record. If the Board modifies or reverses the Hearing Officer's recommendation, it shall set forth its reasons for doing so in writing with reference to parts of the compiled record or conclusions drawn therefrom. The Board may also elect to remand the request to the Hearing Officer for clarification or for further hearing to obtain information the Board deems essential. Confirmation of the Hearing Officer's recommendation may be accomplished by Board action, adopting the Hearing Officer's decision as its own. Appeals from Board action may be taken in accord with provisions of section 39-418, Idaho Code. (3-20-97)

~~560~~902.VIOLATION AND ENFORCEMENT.
Violation of any provision of these rules shall be subject to the following enforcement procedures: (3-20-97)

01. Violation of Rules. Any person, association, or corporation, or the officers thereof, violating any of the provisions of these rules shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars ($300), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment. (3-20-97)

02. Liability of Violator. In addition to fine and imprisonment, any person, association, or corporation, or the officers thereof found to be in violation of these rules shall be liable, by civil action or restitution, for any expense incurred by the District in enforcing this act, or in removing or terminating any nuisance or health hazard. ~~(3-20-97)~~(____)

03. Other Action. Any person, association, or corporation, or the officers thereof shall additionally be subject to civil court action, including an injunction or restraining order, and to such penalties, costs, or fees as may be necessary to compel compliance. (3-20-97)

04. Successive Days in Violation. Each successive day in violation shall be considered a separate offense and shall be subject to ~~*cumulative*~~ individual penalties for each separate offense. ~~(3-20-97)~~(____)

90~~1~~3. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0502

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth 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. This rule was adopted as a temporary rule by the Board in February 2006 and is currently effective.

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 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, June 7, 2006, Vol. 06-6, pages 128 through 133. 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 http://www.deq.idaho.gov/rules/air/58_0101_0502_temporary_pending.cfm or by contacting the undersigned.**

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

IDAHO CODE SECTION 39-107D STATEMENT: This rule is broader in scope than federal law as the federal government has not yet indicated that these particular size and type of dairy farms must obtain air quality permits. The federal government is in the emissions information gathering stage of regulating emissions from dairy farms. This rule may be revised upon completion of additional state and federal scientific research. The negotiated rule group reached consensus that the ammonia control point value associated with the various BMPs is based on the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

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 (208) 373-0440, martin.bauer@deq.idaho.gov.

DATED this 17th day of October, 2006.

DEPARTMENT OF ENVIRONMENTAL QUALITY **Docket No. 58-0101-0502**
Rules for the Control of Air Pollution in Idaho **PENDING RULE**

THIS 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: 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 June 23, 2006. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Independent Dairy Environmental Action League (IDEAL) and the Idaho Conservation League (ICL) asked the Department of Environmental Quality (DEQ) to initiate a negotiated rulemaking to consider air quality permit rules to control ammonia from dairy farms. In February 2006, the Board adopted a temporary rule that requires dairy farms above the specified threshold numbers of cows or animal units to implement industry best management practices to control ammonia emissions through a permit by rule. In April 2006, the Board amended the temporary rule with the addition of Subsection 763.04, which exempts dairy farms from paying the permit by rule registration fee. The temporary rule, along with the amendment, will become effective on July 1, 2006. This proposed rule is the same text as the temporary rule adopted in February and amended in April.

DEQ is also seeking public comment on two documents: "Fact Sheet Docket 58-0101-0502: Rules for the Control of Ammonia from Dairy Farms" and "Scientific Basis for the Control of Ammonia from Dairy Farms Best Management Practices - 4/14/06". These documents may be obtained at www.deq.idaho.gov/air/permits_forms/permitting/pbr-dairies.cfm or by contacting Phyllis Heitman, phyllis.heitman@deq.idaho.gov, (208) 373-0256.

The text of this rule was developed by DEQ in conjunction with a negotiating committee made up of representatives from the dairy industry, the environmental community, other state agencies, and other persons having an interest in the development of this rule. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2007 legislative session if adopted by the Board and approved by the Legislature.

IDAHO CODE 39-107D STATEMENT: This rule is broader in scope than federal law as the federal government has not yet indicated that these particular size and type of dairy farms must obtain air quality permits. The federal government is in the emissions information gathering stage of regulating emissions from dairy farms. This rule may be revised upon completion of additional state and federal scientific research. The negotiated rule group reached consensus that the ammonia control point value associated with the various BMPs is based on the best available peer- reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

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

NEGOTIATED RULEMAKING: **The text of the 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, April 6, 2005, Vol. 05-4, page 18.**

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 July 7, 2006.

DATED this 3rd day of May, 2006.

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 DOCKET NO. 58-0101-0502

752. -- 7~~74~~59. (RESERVED).

760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.
The purpose of Sections 760 through 764 is to set forth the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651 of these rules. Registration forms and guidance documents relating to these rules are located at www.deq.idaho.gov. ( )

761. GENERAL APPLICABILITY.
The requirements of Sections 760 through 764 apply to the following size dairy farms:

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH_3/year

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
	AU (100 t NH_3) Threshold		
No land app	7089	3893	2293
27% volatilization [1]	6842	3827	
80% volatilization [2]	6397	3700	
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
	Total Cows (100 t NH_3) Threshold		
No land app	5063	2781	1638
27% volatilization [1]	4887	2733	
80% volatilization [2]	4569	2643	

[1] Assumes: Expected level of N->NH_3 volatilization for: drop-hose or ground level liquid manure application

[2] Assumes: Expected level of N->NH_3 volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application

(____)

762. PERMIT BY RULE.

01. General Requirement. Owners and operators of dairy farms shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 shall not operate without obtaining the applicable permit by rule within the time frame specified. (____)

02. Optional Permit by Rule. Nothing in Sections 760 through 764 shall preclude any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor shall Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. (____)

03. Exemption. If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm shall notify the Director in writing within fourteen (14) days of the emergency. The notification shall include an explanation of the emergency circumstances. The dairy farm shall be exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Director determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule "emergency" shall be defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. (____)

763. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a new dairy farm subject to Sections 760 through 764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, shall register prior to fifteen (15) days of triggering the threshold for which a permit is required. ( )

02. Registration Due Date. Any owner or operator of an existing dairy farm subject to Sections 760 through 764 shall register within fifteen (15) days of the effective date of Sections 760 through 764. ( )

03. Registration Information. The following information shall be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: ( )

a. Name, address, location of dairy farm, and telephone number. ( )

b. Information sufficient to establish that the dairy farm is of the size and type described in Section 761. ( )

c. Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. ( )

04. Exemption from Registration Fee. Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. ( )

05. Inspection. Within thirty (30) days of receipt of the registration information, the state of Idaho shall conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. ( )

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, shall employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Director may determine a practice not listed in the table constitutes a BMP and assign a point value. ( )

02. Table - Ammonia Control Practices for Idaho Dairies.

		Ammonia Control Effectiveness [1]			
System	**Component**	**Open Lot**	**Freestall Scrape**	**Freestall Flush**	**Compliance Method[3]**
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1

		Ammonia Control Effectiveness [1]			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method[3]
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Ammendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1

		Ammonia Control Effectiveness [1]			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method[3]
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
Land Application[2]	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

		Ammonia Control Effectiveness [1]			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method[3]

Notes:
1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.

2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.

3. Method used by inspector to determine compliance
1=Observation by Inspector
2=On-Site Recordkeeping Required
3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns shall be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.

( )

765. -- 774. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0601

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by 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 2, 2006, Vol. 06-8, pages 105 through 132. After consideration of public comments, the proposed rule has been revised at Sections 006, 107, 665, and 667. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0601_pending.cfm or by contacting the undersigned.**

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

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

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 (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 12th day of October, 2006.

THIS 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.

DEPARTMENT OF ENVIROMENTAL QUALITY ***Docket No. 58-0101-0601***
Control of Air Pollution in Idaho ***PENDING RULE***

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

September 6, 2006 at 4:00 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 tasked with developing a plan to address Regional Haze in Class I Wilderness Areas within Idaho and other Class I areas impacted by Idaho by December 17, 2007 as required by the Federal Clean Air Act, Regional Haze Rule, 40 CFR 51.308. The intent of the Regional Haze Rule is to reduce the impacts of man-made visibility impairing pollutants on Class I areas by 2064. The first implementation plan will cover the time period from 2008 through 2018. The plan will set "Reasonable Progress Goals" and develop control strategies to attain the progress goals.**

Through the negotiated rule process, rules were drafted that provide DEQ with the authority to develop "Long-Term Strategies" for making reasonable progress toward improving visibility in mandatory Class I Federal Areas. The proposed rule also provides DEQ with the authority to establish "Reasonable Progress Goals," based on emission reduction control strategies identified through the "Long-Term Strategies" and the implementation of Best Available Retrofit Technologies, in order to obtain the goals and satisfy other requirements under 40 CFR 51.308 and Subpart P -- Protection of Visibility requirements.

The text of this rule was developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule including industry representatives, federal land managers, and public officials. BART-eligible and other sources of air pollution may be affected by this rulemaking and may wish to submit comment. Representatives of the industrial community, special interest groups, public officials, federal land managers, metropolitan planning organizations, or members of the public who have an interest in the air quality in Idaho may also wish to comment 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 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2007 legislative session if adopted by the Board and approved by the Legislature.

IDAHO CODE 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.

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

NEGOTIATED RULEMAKING: The text of the 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, January 4, 2006, Vol. 06-1, page 296.

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 Mike Edwards at (208) 373-0438, mike.edwards@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 6, 2006.

DATED this 30th day of June, 2006.

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

006. GENERAL DEFINITIONS.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (4-5-00)

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (4-5-00)

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (4-5-00)

04. **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: ( )

a. Times of visitor use of the Federal Class I Area; and ( )

b. The frequency and timing of natural conditions that reduce visibility. ( )

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. ( )

0~~4~~5. **Air Pollutant/Air Contaminant**. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (4-5-00)

0~~5~~6. **Air Pollution**. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (4-5-00)

0~~6~~7. **Air Quality**. The specific measurement in the ambient air of a particular air

pollutant at any given time. (5-1-94)

0~~7~~8. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

0~~8~~9. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)

a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)

b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)

c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)

~~09~~10. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

1~~0~~1. Ambient Air Quality Violation. Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-11-06)

1~~1~~2. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)

1~~2~~3. 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 air pollutant or air pollutants. (4-11-06)

14. BART-Eligible Source. Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (____)

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (____)

b. Coal cleaning plants (thermal dryers); (____)

c. Kraft pulp mills; (____)

d. Portland cement plants; (____)

e. Primary zinc smelters; ( )

f. Iron and steel mill plants; ( )

g. Primary aluminum ore reduction plants; ( )

h. Primary copper smelters; ( )

i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; ( )

j. Hydrofluoric, sulfuric, and nitric acid plants; ( )

k. Petroleum refineries; ( )

l. Lime plants; ( )

m. Phosphate rock processing plants; ( )

n. Coke oven batteries; ( )

o. Sulfur recovery plants; ( )

p. Carbon black plants (furnace process); ( )

q. Primary lead smelters; ( )

r. Fuel conversion plants; ( )

s. Sintering plants; ( )

t. Secondary metal production facilities; ( )

u. Chemical process plants; ( )

v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; ( )

w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; ( )

x. Taconite ore processing facilities; ( )

y. Glass fiber processing plants; and ( )

z. Charcoal production facilities. ( )

1~~3~~5. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

16. **Best Available Retrofit Technology (BART)**. Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. ( )

1~~4~~7. **Board**. Idaho Board of Environmental Quality. (5-1-94)

1~~5~~8. **Breakdown**. An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)

1~~6~~9. **BTU**. British thermal unit. (5-1-94)

~~17~~20. **Clean Air Act**. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

~~18~~21. **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)

~~19~~22. **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~~0~~3. **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~~1~~4. **Construction**. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

2~~2~~5. **Control Equipment**. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

2~~3~~6. **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~~4~~7. **Criteria Air Pollutant**. Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)

28. **Deciview**. A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to

uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e (b_{ext} / 10Mm^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). (____)

2~~5~~9. **Department**. The Department of Environmental Quality. (5-1-94)

~~26~~30. **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)

~~27~~31. Director. The Director of the Department of Environmental Quality or his designee. (5-1-94)

~~28~~32. 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)

~~29~~33. 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~~0~~4. 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~~1~~5. 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~~2~~6. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

3~~3~~7. 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~~4~~8. Excess Emissions. Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)

3~~5~~9. 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)

~~36~~40. 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. (4-11-06)

~~37~~41. Federal Class I Area. Any federal land that is classified or reclassified "Class I" ~~*pursuant to Section 580*~~. ~~*(5-1-94)*~~(____)

~~38~~42. Federal Land Manager. The Secretary of the ~~*federal*~~ department with authority over ~~*any federal lands in the United States*~~ the Federal Class I Area (or the Secretary's designee). ~~*(5-1-94)*~~(____)

43. Federally Enforceable. All limitations and conditions which are enforceable by *EPA and* the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60*, or 63*. (____)

~~39~~44. 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~~0~~5. 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~~1~~6. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

4~~2~~7. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

4~~3~~8. 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)

~~44~~49. **Grain Elevator**. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

~~45~~50. **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)

~~46~~51. **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)

~~47~~52. **Hazardous Air Pollutant (HAP)**. Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. (4-11-06)

~~48~~53. **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)

~~49~~54. **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~~0~~5. 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~~1~~5. 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~~7~~. **Integral Vista**. A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. (____)

5~~2~~8. **Kraft Pulping**. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

59. **Least Impaired Days**. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (____)

~~53~~60. **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)

61. **Mandatory Class I Federal Area**. Any area identified in 40 CFR 81.400 through 81.437. (____)

~~54~~62. **Member of the Public**. For purposes of Subsection 006.~~89~~103.a.xvi., a person located at any off-site point where there is a residence, school, business or office. ~~(4-11-06)~~(____)

~~55~~63. **Modification**. (4-11-06)

a. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. (4-11-06)

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. (4-11-06)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

d. For purposes of ~~Subsections 006.55.a. and 006.55.b.~~ this definition of modification, 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:

~~(4-11-06)~~(____)

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)

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

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~~64. **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)

65. **Most Impaired Days**. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (____)

~~57~~66. **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)

67. **Natural Conditions**. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (____)

~~58~~68. **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)

~~59~~69. **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)

~~60~~70. **Noncondensibles**. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

~~61~~71. **Odor**. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

~~62~~72. **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)

~~63~~73. **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)

~~64~~74. **Operating Permit**. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

~~65~~75. **Particulate Matter**. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

~~66~~76. **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~~7. **Permit to Construct**. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

~~68~~78. **Person**. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

~~69~~79. **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)

~~70~~80. **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)

~~71~~81. **Potential to Emit/Potential Emissions**. The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source 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,*~~ including air pollution control equipment~~,~~ and restrictions on hours of operation ~~*and restrictions*~~ or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. ~~*This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o.*~~ Secondary emissions do not count in determining the potential to emit of a facility or stationary source. ~~*(4-5-00)*~~( )

~~72~~82. **Portable Equipment**. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

~~73~~83. **PPM (parts per million)**. Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

~~74~~84. **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)

~~75~~85. **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)

~~76~~86. **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)

~~77~~87. **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)

~~78~~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)

~~7~~89. **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~~90. **Radionuclide**. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

91. **Regional Haze**. Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. (____)

~~81~~92. **Regulated Air Pollutant**. (4-11-06)

a. 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; (4-11-06)

b. 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~~94.a. shall also apply; ~~(4-11-06)~~(____)

c. 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 (4-11-06)

d. 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. (4-11-06)

***~~82~~93*.** **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)

***~~83~~94*.** **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)

***~~84~~95*.** **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)

~~85~~96. **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)

~~86~~97. **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)

~~87~~98. **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)

~~1~~99. **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. ( )

~~88~~100. **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)

~~89~~101. **Significant**. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: (4-11-06)

a. Pollutant and emissions rate: (4-11-06)

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; (4-11-06)

v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)

vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)

vii. Fluorides, three (3) tons per year; (5-1-94)

viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)

ix. Hydrogen sulfide (H2S), ten (10) tons per year; (5-1-94)

x. Total reduced sulfur (including H2S), ten (10) tons per year; (5-1-94)

xi. Reduced sulfur compounds (including H2S), ten (10) tons per year; (5-1-94)

xii. 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)

xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)

xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)

xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-11-06)

xvi. 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.~~89~~103.a. above and not a toxic air pollutant, any emission rate; or ~~(4-11-06)~~(____)

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)

~~**90**~~**102. 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)

~~*91*~~**103. 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)

~~*92*~~**104. Smoke**. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

~~*93*~~**105. Smoke Management Plan**. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

~~*94*~~**106. 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)

~~*95*~~**107. Source**. A stationary source. (5-1-94)

~~*96*~~**108. 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)

~~*97*~~**109. 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)

~~*98*~~**110. 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)

~~99~~11~~1~~. **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)

1~~00~~12. **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. (4-11-06)

1~~0~~13. **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; (4-11-06)

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); (4-11-06)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

1~~02~~14. **Total Suspended Particulates**. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

1~~03~~15. **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)

1~~04~~16. **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)

1~~05~~17. **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)

1~~06~~18. **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)

1~~07~~19. 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)

1~~08~~20. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

1~~09~~21. 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)

1~~10~~22. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

1~~11~~23. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

124. Visibility Impairment. Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (____)

125. Visibility in Any Mandatory Class I Federal Area. Includes any integral vista associated with that area. (____)

1~~12~~26. 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)

1~~13~~27. 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)*~~

0~~2~~1. 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)

0~~3~~2. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (4-11-06)

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. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

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. (4-11-06)

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. (4-11-06)

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 007.0~~3~~2.a.ii. ~~(4-11-06)~~(____)

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. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

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. (4-11-06)

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. (4-11-06)

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. (4-11-06)

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. (4-11-06)

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. (4-11-06)

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 007.0~~3~~2.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.0~~3~~2.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.0~~3~~2.c. ~~(4-11-06)~~(____)

0~~4~~3. **Begin Actual Construction**. Commence construction. (4-11-06)

0~~5~~4. **Emissions Increase**. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (4-11-06)

0~~6~~5. **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)

~~*07. **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)~~

~~*08. **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~~9~~6. Net Emissions Increase. 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: (4-11-06)

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)

~~1~~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)

~~11~~08. Projected Actual Emissions. (4-11-06)

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. (4-11-06)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (4-11-06)

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 (4-11-06)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (4-11-06)

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 (4-11-06)

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. (4-11-06)

~~*12*~~**09. Reasonable Further Progress (RFP)**. Annual incremental reductions in emissions of the applicable 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. (4-11-06)

~~***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~~*4*~~**0. 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~~*5*~~**1. 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~~65~~2. 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)

~~***17. 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)

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, 2005. (4-11-06)

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, 2005. (4-11-06)

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, ~~*Identification of Integral Vistas, Subsection a,*~~ 40 CFR ~~*Part*~~ 51.301, 51.304(a), 51.307, and 51.308, revised as of July 1, 200~~5~~6. ~~*(4-11-06)*~~( )

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 2005. (4-11-06)

f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2005. (4-11-06)

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, 2005. (4-11-06)

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2005. (4-11-06)

i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2005. (4-11-06)

j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2005. (4-11-06)

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2005. (4-11-06)

l. Permits, 40 CFR Part 72, revised as of July 1, 2005. (4-11-06)

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2005. (4-11-06)

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2005. (4-11-06)

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, 2005, 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. (4-11-06)

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. (4-11-06)

(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, 2005, are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2005, 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

(4-11-06)

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 Federal ~~*a*~~Area, by the new major facility or major modification, is consistent with making reasonable progress toward ~~*remedying existing and preventing future visibility impairment*~~ the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. 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, 2005, 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

(4-11-06)

02. **Effect on Visibility**. The applicant must demonstrate that the effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. 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 51.304(a), may be exempted from this requirement by the Department. (____)

0~~2~~3. 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)

0~~3~~4. 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)

600. RULES FOR CONTROL OF OPEN BURNING.
The purpose of Sections 600 through 617 is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667.
~~(3-21-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

651. GENERAL RULES.
All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:
~~(5-1-94)~~(____)

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. (5-1-94)

02. Application of Dust Suppressants. Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces which can create dust. (5-1-94)

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. (5-1-94)

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. (5-1-94)

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical. (5-1-94)

06. Removal of Materials. Prompt removal of earth or other stored material from streets, where practical. (5-1-94)

652. -- 6~~7~~64. (RESERVED).

665. REGIONAL HAZE RULES.
The purpose of Sections 665 through 668 is to address regional haze visibility impairment in mandatory Class I Federal Areas. The intent of Sections 665 through 668 is to *set forth the requirements to implement the federal programs for visibility protection and regional haze*.( )

666. REASONABLE PROGRESS GOALS.
The Department will establish reasonable progress goals, expressed in deciviews for each mandatory Class I Federal Area located within Idaho. These goals will provide for reasonable progress toward achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The reasonable progress goals are not directly enforceable, but will be implemented through enforceable strategies in the long-term strategy. ( )

01. Process for Setting Reasonable Progress Goals. In establishing a reasonable progress goal for any mandatory Class I Federal Area within Idaho, the Department shall: ( )

a. Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. ( )

b. Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the Department will compare baseline visibility conditions to natural visibility conditions in the mandatory Class 1 Federal Area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress, the Department will consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan. ( )

c. Consult with those states which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal Area. ( )

02. Justification for Reasonable Progress Goals. If the Department establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the Department will demonstrate, based on the factors in Subsection 666.01.a., that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the Department is reasonable. The Department will provide to the public for review, as part of its implementation plan, an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the Department as reasonable. ( )

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.
The purpose of Section 667 is to develop a long-term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man-made air pollution. ( )

01. Submittal of Long-Term Strategy. The Department will submit *to EPA* a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from the state. ( )

02. Enforceable Emission Limitations. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by the Department. ( )

03. Requirements for Long-Term Strategy. In establishing long-term strategy for regional haze, the Department will meet the following requirements: ( )

a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory. ( )

b. The Department will identify all anthropogenic sources of visibility impairment considered by the Department in developing its long-term strategy. The Department should consider major and minor stationary sources, mobile sources, and area sources. ( )

c. The Department will consider, at a minimum, the following factors in developing its long-term strategy: ( )

i. Emission reductions due to ongoing air pollution control programs, including

measures to address reasonably attributable visibility impairment; ( )

ii. Measures to mitigate the impacts of construction activities; ( )

iii. Emissions limitations and schedules for compliance to achieve the reasonable progress goal; ( )

iv. Source retirement replacement schedules; ( )

v. Smoke management techniques for agricultural and forestry management purposes including plans as currently exist with the state for these purposes; ( )

vi. Enforceability of emissions limitations and control measures; and ( )

vii. The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. ( )

04. Interstate Consultation. The Department will undertake the following process in developing the long-term strategy where interstate consultation is required. ( )

a. Where Idaho has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area located in another state or states, the Department will consult with the other state(s) in order to develop coordinated emission management strategies. ( )

b. The Department will consult with any other state having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area within Idaho. ( )

c. Where other states cause or contribute to impairment in a mandatory Class I Federal Area, the Department must demonstrate that the state has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the state of Idaho has participated in a regional planning process, the Department must ensure the state has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. ( )

668. BART REQUIREMENT FOR REGIONAL HAZE.
The purpose of Section 668 is to implement the BART requirements in 40 CFR 51.308(e). The following analysis and documentation is required for each BART-eligible source: ( )

01. BART-Eligible Sources. The Department shall identify a list of all BART-eligible sources within the state. ( )

02. BART Determination. The Department shall complete a determination of BART for each BART-eligible source in the state that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal Area. All such sources are subject to BART. ( )

a. A single source that is responsible for a one (1.0) deciview change or more in any mandatory Class I Federal Area is considered to "cause" visibility impairment. ( )

b. A single source that is responsible for a one-half (0.5) deciview change or more in any mandatory Class I Federal Area is considered to "contribute" to visibility impairment. ( )

c. The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject to BART within the state. In this analysis, the following must be taken into consideration: ( )

i. Costs of compliance; ( )

ii. Energy and non-air quality environmental impacts of compliance; ( )

iii. Any pollution control equipment in use at the source; ( )

iv. The remaining useful life of the source; and ( )

v. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. ( )

d. The Department may determine that a BART determination is not required: ( )

i. For sulfur dioxide (SO_2) or for nitrogen oxides (NO_x) if a BART-eligible source has the potential to emit less than forty (40) tons per year of such pollutant(s); or ( )

ii. For PM10 if a BART-eligible source emits less than fifteen (15) tons per year of such pollutant. ( )

03. Alternative to Infeasible Emission Standards. If the Department determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice, or operation and must provide for compliance by means which achieve equivalent results. ( )

04. BART Installation and Operation Due Date. Each source subject to BART is required to install and operate BART as expeditiously as practicable, but in no event later than five (5) years after approval of the implementation plan. ( )

05. Maintenance of BART Equipment. Each source subject to BART is required to maintain the control equipment required by the Department and establish procedures to ensure such equipment is properly operated and maintained. ( )

06. BART Alternative. As an alternative to the installation of BART for a source or sources, the Department may approve a BART alternative. If the Department approves source grouping as a BART alternative, only sources (including BART-eligible and non-BART eligible sources) causing or contributing to visibility impairment to the same mandatory Class I Federal Area may be grouped together. ( )

a. If a source(s) proposes a BART alternative, the resultant emissions reduction and visibility impacts must be compared with those that would result from the BART options evaluated for the source(s). ( )

b. Source(s) proposing a BART alternative must demonstrate that this BART alternative will achieve greater reasonable progress than would be achieved through the installation and operation of BART. ( )

c. Source(s) proposing a BART alternative shall include in the BART analysis an analysis and justification of the averaging period and method of evaluating compliance with the proposed emission limitation. ( )

07. Reasonable Progress Goal Requirements for BART-Eligible Sources. Once the Department has met the requirements for BART or BART alternative, as identified in Subsection 668.06, BART-eligible sources will be subject to the requirements of reasonable progress goals, as defined in 40 CFR 51.308(d), in the same manner as other sources. ( )

669. -- 674. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0602

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by 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 Sections 111 and 112(l) of the Clean Air Act.

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 6, 2006, Vol. 06-9, pages 224 through 232. After consideration of public comments, the proposed rule has been revised at Section 107. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0602_pending.cfm or by contacting the undersigned.**

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 16th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

DEPARTMENT OF ENVIROMENTAL QUALITY ***Docket No. 58-0101-0602***
Rules for the Control of Air Pollution in Idaho ***PENDING 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 Sections 111 and 112(l) of the Clean Air Act.

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

October 10, 2006, 3:00 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 remain consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2006 and deletes unnecessary, outdated references.

This rulemaking also specifically exempts certain federal regulations from incorporation by reference into IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho:

1) In accordance with New York v. EPA, 413 F.3d 3 (D.C. Cir. 2005), this proposed rule expressly omits the clean unit and pollution control project provisions currently incorporated by reference in IDAPA 58.01.01, Sections 107, 204 and 205. The Federal Court vacated these provisions.

2) For clarity and consistency with Proposed Rule Docket No. 58-0101-0601, which addresses Regional Haze in Class I Wilderness Areas within Idaho (published in the August 2006 Idaho Administrative Bulletin), this proposed rule expressly omits certain sections of 40 CFR Part 51, Subpart P, Protection of Visibility, and Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. See IDAPA 58.01.01, Subsection 107.03.a.

3) Federal Register publications regarding coal fired utilities are specifically exempted in IDAPA 58.01.01, Subsection 107.03.p.

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 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2007 session of the Idaho

Legislature if adopted by the Board and approved by the Legislature.

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

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.

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, 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 10, 2006.

DATED this 4th day of August, 2006.

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

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. 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: (4-11-06)

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~~5~~6, are hereby incorporated by reference. ~~*(4-11-06)*~~(_____)

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~~;~~ and Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 ~~*and 52*~~ revised as of July 1, 200~~5~~6. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ~~*(4-11-06)*~~( )

i. The clean unit and pollution control project provisions in 40 CFR 51.165; ( )

ii. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and ( )

iii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. ( )

~~**b.** *Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996.* (3-19-99)~~

~~**e**~~**b.** National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**d**~~**c.** 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~~5~~6. ~~(4-11-06)~~(____)

~~**e**~~**d.** Approval and Promulgation of Implementation Plans, 40 CFR Part 52, excluding the clean unit and pollution control project provisions in 40 CFR 52.21, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**f**~~**e.** Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**g**~~**f.** 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~~5~~6. ~~(4-11-06)~~(____)

~~**h**~~**g.** Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**i**~~**h.** National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**j**~~**i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**k**~~**j.** Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**l**~~**k.** Permits, 40 CFR Part 72, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**m**~~**l.** Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**n**~~**m.** Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 200~~5~~6. ~~(4-11-06)~~(____)

~~**o**~~**n.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

~~**p**~~**o.** 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~~5~~6, 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. ~~(4-11-06)~~(____)

~~q~~**p.** 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. 51,26~~7~~6~~, is~~; *the final rule for* Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units*, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24*, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed. Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. ~~(4-11-06)~~(____)

(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, 2005, and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 200~~5~~6. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. ~~(4-11-06)~~(____)

(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, excluding the clean unit and pollution control project provisions, revised as of July 1, 2005, are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 200~~5~~6, 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

~~(4-11-06)~~(_____)

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, excluding the clean unit and pollution control project provisions, revised as of July 1, 200~~5~~6, 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

~~(4-11-06)~~(_____)

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)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0603

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature if the rule is approved 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. The 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 4, 2006, Vol. 06-10, pages 597 and 598. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0603_pending.cfm or by contacting the undersigned.**

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 16th day of November, 2006.

THIS 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:

November 3, 2006, 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: Federal law requires the state of Idaho to submit a plan to EPA by November 17, 2006, that (1) ensures the state meets its Annual Coal Fired Electric Utility Steam Generating Unit (EGU) Mercury (Hg) budget for the appropriate periods; and (2) requires EGUs to comply with various monitoring, recordkeeping and reporting provisions. 40 CFR 60.24(h).

As part of the plan, DEQ proposes a rule to opt out of, or not participate in, the federal cap and trade program for Hg emissions from EGUs, codified at 40 CFR Part 60, Subpart HHHH. Additionally, to meet the state of Idaho's zero budget, DEQ proposes a rule that prohibits the construction of any EGU with Hg emissions.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2007 session of the Idaho Legislature if adopted by the Board and approved by the Legislature.

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

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.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not initiated because the rulemaking schedule did not allow for the timing of it.

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 3, 2006.

DATED this 24th day of August, 2006.

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

182. -- 19~~9~~8. (RESERVED).

199. ELECTRIC GENERATING UNIT CONSTRUCTION PROHIBITION.
No owner or operator shall construct or operate an Electric Generating Unit (EGU), as defined in 40 CFR 60.24, with a potential to emit mercury (Hg) emissions. (____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0602

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 2, 2006, Vol. 06-8, pages 133 through 139.

No written public comments were received; however, the rule has been revised at Sections 000, 005, 006, 008 and 009 in response to a verbal suggestion received from the U.S. EPA, Region 10 (EPA). Upon review of the proposed rule, EPA suggested that reference to the Hazardous Waste Management Act of 1983 and the Hazardous Waste Facility Siting Act of 1985 should be clarified by adding the term "as amended" at the end of the full title of each of the acts. EPA also suggested that certain federal regulation citations should be added to clarify the meaning of EPA within the Idaho state rules. The addition of these citations makes DEQ's incorporation by reference of the federal hazardous waste regulations more accurate. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/haz_waste/58_0105_0602_pending.cfm or by contacting the undersigned.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact John Brueck at john.brueck@deq.idaho.gov, (208)373-0458.

Dated this 12th day of October, 2006.

THIS 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 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 16, 2006. 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, 2006.

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 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2007 legislative session if approved by the Legislature.

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

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.

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, john.brueck@deq.idaho.gov, (208)373-0458.

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 30, 2006.

Dated this 30th day of June, 2006.

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

000. LEGAL AUTHORITY.
These rules are adopted pursuant to the authority vested in the Board of Environmental Quality by the Hazardous Waste Management Act of 1983, *as amended* (HWMA), Sections 39-4401 et seq., Idaho Code, and the authority vested in the Director of the Department of Environmental Quality by the Hazardous Waste Facility Siting Act of 1985, *as amended*, Sections 39-5801 et seq., Idaho Code. ~~*(3-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

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~~5~~6, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~*(4-11-06)*~~(____)

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.
40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~5~~6. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. ~~(4-11-06)~~(____)

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~~5~~6. 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 261.4(b)(11)(ii) and* 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-11-06)~~(____)

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~~5~~6. 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 *262.21,* 262.51, 262.53, *262.54(e),* 262.54(g)(1), *262.60,* 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. ~~*(4-11-06)*~~(_____)

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~~5~~6. 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.
~~*(4-11-06)*~~(_____)

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~~5~~6. 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 *264.71(a)(3) and* 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.
~~*(4-11-06)*~~(____)

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~~5~~6. 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 *265.71(a)(3) and* 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.
~~*(4-11-06)*~~(____)

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~~5~~6. ~~*(4-11-06)*~~(____)

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~~5~~6, 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. ~~*(4-11-06)*~~(____)

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~~5~~6. 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. ~~*(4-11-06)*~~(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A, B and ~~B~~ G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~5~~6, 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.
~~(4-11-06)~~(____)

(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~~5~~6. 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. ~~(4-11-06)~~(____)

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~~5~~6. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-11-06)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.
40 CFR Part 267 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2006. (____)

01~~8~~9. -- 354. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0601

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth 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. This rule was adopted as a temporary rule by the Board in November 2005 and is currently effective.

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, January 4, 2006, Vol. 06-1, pages 305 through 312. 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: Previous federal regulation prohibited use of POU treatment devices for compliance with National Primary Drinking Water Regulations. In 1996, the United States Congress removed this prohibition through language in the Safe Drinking Water Act, 42 U.S.C. § 300g-1(b)(4)(E)(ii).

The revised arsenic standard of 10 parts per billion for drinking water will become effective on January 23, 2006. See National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, 66 Fed. Reg. 6975-7066, incorporated by reference into Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08. In order to assist communities with complying with the revised arsenic standard, the Board adopted this rule allowing for use of POU treatment devices as allowed per federal law.

Idaho Code Section 39-107D provides that the Department of Environmental Quality (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. This rule incorporates language from the Safe Drinking Water Act (42 U.S.C.§ 300g-1(b)(4)(E)(ii)). The Safe Drinking Water Act states that POU treatment devices "shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique." Id. To that end, this rule includes language DEQ deems necessary in order to ensure that POU treatment devices are operated and maintained pursuant to federal law.

Although the federal Safe Drinking Water Act does not specifically prohibit use of POU treatment

devices for compliance with the nitrate maximum contaminant level (MCL), this rule is more restrictive in that it does not allow POU for the nitrate MCL in community water systems because of the risk of acute illness for infants. POU treatment systems may still be used for compliance with nitrate standards for non-community water systems under certain conditions where the risk of acute illness is low. The nitrate MCL was promulgated in 1975 by the Public Health Service and re-promulgated in 1991 by EPA (56 CFR 3526).

POU treatment devices may be covered under the definition of "material modification" outlined in Idaho Code § 39-118 and be subject to plan and specification review. However, because the POU treatment devices are ANSI/NSF certified pre-engineered units and are not being constructed individually onsite, DEQ has determined that these devices will not produce a significant impact on the environment or on public health, and therefore waives plan and specification review for certain small public water systems as specified in the rule. The main public health and environmental concern associated with POU treatment devices pertains to the proper operation and maintenance of the units.

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

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 rulemaking, contact Jerri Henry at jerri.henry@deq.idaho.gov, (208)373-0471.

Dated this 23rd day of February, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective November 17, 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 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 January 18, 2006. If no such written request is received, a public hearing will not be held.

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.

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0108-0601***
Idaho Rules for Public Drinking Water Systems ***PENDING RULE***

DESCRIPTIVE SUMMARY: DEQ has initiated this rulemaking to allow public drinking water systems the flexibility to use point of use (POU) treatment technology for treating some chemical contaminants such as arsenic. The rule will exempt small public drinking water systems from the requirement in Section 39-118, Idaho Code, to submit engineering plans and specifications if they serve less than 200 service connections and submit technical and managerial documentation to the Department. The rule also allows public drinking water systems serving over 200 service connections the option to apply to the state for a waiver of the engineering plan and specification requirements.

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 February 2006. The pending rule will become final upon the conclusion of the 2007 session of the Idaho Legislature if approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary in order to confer a benefit. The benefit is the increased flexibility for public water systems to use point of use treatment devices for treating some chemical contaminants such as arsenic. Additionally, the rule provides a cost savings by waiving engineering plans and specifications required by Section 39-118, Idaho Code, for systems serving less than 200 service connections. It was necessary to make this rule immediately effective to ensure that the point of use treatment alternative is available prior to the revised federal arsenic standard for drinking water becoming effective on January 23, 2006.

IDAHO CODE SECTION 39-107D STATEMENT: Previous federal regulation prohibited use of POU treatment devices for compliance with National Primary Drinking Water Regulations. In 1996, the United States Congress removed this prohibition through language in the Safe Drinking Water Act, 42 U.S.C. Section 300g-1(b)(4)(E)(ii).

The revised arsenic standard of 10 parts per billion for drinking water will become effective on January 23, 2006. *See* National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, 66 Fed. Reg. 6975-7066, incorporated by reference into Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08. In order to assist communities with complying with the revised arsenic standard, DEQ proposes this rule allowing for use of POU treatment devices as allowed per federal law.

Idaho Code Section 39-107D 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. This rule incorporates language from the Safe Drinking Water Act (42 U.S.C.Section 300g-1(b)(4)(E)(ii)). The Safe Drinking Water Act states that POU treatment devices "shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique". Id. To that end, this rule includes language DEQ deems necessary in order to ensure that POU treatment devices are operated and maintained pursuant to federal law.

Although the federal Safe Drinking Water Act does not specifically prohibit use of POU treatment devices for compliance with the nitrate maximum contaminant level (MCL), this rule is more restrictive in that it does not allow POU for the nitrate MCL in community water systems because of the risk of acute illness for infants. POU treatment systems may still be used for compliance with nitrate standards for non-community water systems under certain conditions where the risk of acute illness is low. The nitrate MCL was promulgated in 1975 by the Public Health Service and re-promulgated in 1991 by EPA (56 CFR 3526).

POU treatment devices may be covered under the definition of "material modification" outlined in Section 39-118, Idaho Code, and be subject to plan and specification review. However, because the POU treatment devices are ANSI/NSF certified pre-engineered units and are not being constructed individually onsite, DEQ has determined that these devices will not produce a significant impact on the environment or on public health, and therefore waives plan and specification review for certain small public water systems as specified in the rule. The main public health and environmental concern associated with POU treatment devices pertains to the proper operation and maintenance of the units.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: This temporary rulemaking schedule did not allow for negotiated rulemaking.

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 temporary and proposed rule, contact Jerri Henry at jerri.henry@deq.idaho.gov, (208)373-0471.

Anyone may submit written comments regarding this 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 February 1, 2006.

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 IS THE TEXT OF THE PENDING RULE

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 003.41

42. **Maximum Contaminant Level (MCL)**. The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (11-17-05)T

4~~2~~3. **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~~4. **Maximum Hourly Demand**. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

4~~4~~5. **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~~6. **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~~7. **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)

4~~7~~8. **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)

4~~8~~9. 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)

~~49~~50. 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~~1. 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~~2. 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~~3. 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~~4. Peak Hourly Flow. The highest hourly flow during any day. (12-10-92)

5~~4~~5. 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)

5~~5~~6. 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)

57. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (11-17-05)T

58. Point of Use (POU) Treatment System. A collection of POU treatment devices. (11-17-05)T

5~~6~~9. 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~~60. 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~~61. Public Water System/Water System/System. Means "public drinking water system". (4-5-00)

~~59~~62. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

6~~0~~3. 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~~4. 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)

6~~2~~5. Sampling Point. The location in a public water system from which a sample is drawn. (12-10-92)

6~~3~~6. Sanitary Defects. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

6~~4~~7. 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)

6~~5~~8. 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)

6~~6~~9. 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~~70. 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~~71. 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~~72. 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~~3. 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)

7~~1~~4. 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)

7~~2~~5. 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)

7~~3~~6. 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)

7~~4~~7. 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)

7~~5~~8. 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)

7~~6~~9. 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~~80. 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~~81. 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~~82. 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~~3. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

8~~1~~4. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

8~~2~~5. 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)

8~~3~~6. 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)

8~~4~~7. 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)

8~~5~~8. 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)

450. USE OF NON-CENTRALIZED TREATMENT DEVICES.

01. Point of Entry Devices. 40 CFR 141.100, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

02. Point of Use (POU) Treatment Devices. (11-17-05)T

a. A public water system may use point of use (POU) treatment in order to achieve compliance with certain maximum contaminant levels (MCL) or treatment techniques, in accordance with Subsection 450.02.b., when the following conditions are met: (11-17-05)T

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to Section 450.02.d. (11-17-05)T

ii. The public water system or a vendor of POU treatment devices under contract with the public water system shall own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique. (11-17-05)T

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure that customers are automatically notified of operational problems. (11-17-05)T

iv. The POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards. (11-17-05)T

b. POU treatment devices shall not be used to achieve compliance with a MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial

contaminant. Community water systems may not use POU treatment devices to achieve compliance with a nitrate MCL. (11-17-05)T

c. The Department will waive the plan and specification requirements as described in Subsection 551.04 relating to material modifications for the following systems only to that extent that the material modification proposed is limited to the installation and/or use of a POU treatment device(s): (11-17-05)T

i. Community water systems serving two hundred (200) or fewer service connections. (11-17-05)T

ii. Non-transient non-community water systems. (11-17-05)T

iii. Transient non-community water systems. (11-17-05)T

iv. Community water systems serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 005.01.a. (11-17-05)T

d. A public water system must obtain written approval by the Department before installation of a POU treatment device for the purpose of achieving compliance with a MCL or treatment technique. The public water system shall submit the following documentation for approval to the Department: (11-17-05)T

i. Information identifying the public water system name and number, total number of service connections, contaminant(s) to be treated, type of POU treatment device to be installed, manufacturer and model number of the POU treatment device, type and function of the mechanical warning mechanism (performance indicator) on the POU treatment device, certification verification for ANSI/NSF, installer qualifications, and a proposed date for installation of the POU treatment device(s). (11-17-05)T

ii. The manufacturer's specifications for the POU treatment device including demonstration that the POU treatment device is suited for the water chemistry of the public water system and contaminant(s) of concern and is of sufficient design and capacity for the particular application. (11-17-05)T

iii. Information relating to how other drinking water dispensing units, such as instant hot water dispensers and refrigerator water and ice dispensers, whose primary function is to provide drinking water, will be provided with treated water. If water is transported from a POU treatment device to another drinking water dispensing unit, the conducting tube shall be of non-reactive material. (11-17-05)T

iv. For non-transient non-community water systems and transient non-community water systems, demonstration that the drinking water dispensing units are located in areas adequate to protect public health. (11-17-05)T

v. Demonstration that all POU treatment devices are owned, controlled, and maintained by the public water system or by a vendor of POU treatment devices under contract

with the public water system. (11-17-05)T

vi. A sampling plan identifying the location of all service connections and demonstrating how the system will ensure that all POU treatment devices are sampled for compliance with the contaminant(s) being treated during every compliance period or at a frequency designated by the state. (11-17-05)T

vii. Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling. (11-17-05)T

viii. A plan that describes how the public water system will address any non-compliance with Subsection 450.02.d.vii. (11-17-05)T

ix. A maintenance plan that demonstrates how on-going maintenance activities will be performed and on what frequency, including: frequency of treatment media replacements, frequency of POU treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, plan of how the system will address unscheduled maintenance problems, and a plan and method of waste disposal. (11-17-05)T

x. Documentation that the system meets the current requirements for a certified operator pursuant to Section 554. (11-17-05)T

xi. A plan for on-going education and outreach to the customers of the public water system, including rental customers, on POU treatment and health effects of the contaminant(s) of concern. (11-17-05)T

xii. A plan for how the system will ensure real estate disclosures for the POU treatment system. (11-17-05)T

xiii. A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment. (11-17-05)T

e. Within thirty (30) days of installing the approved POU treatment system, the public water system shall notify the Department in writing that the POU treatment system was installed as approved by the Department. (11-17-05)T

f. Within thirty (30) days of installing the approved POU treatment system, the public water system shall submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated by the POU treatment device. The samples shall be used to demonstrate initial compliance with the MCL. (11-17-05)T

g. The water system owner or operator must maintain records for a POU treatment system. Records shall be submitted to the Department at a frequency and in a format specified by the Department. Records to maintain shall include: (11-17-05)T

i. Requirements of Subsection 450.02.d.; (11-17-05)T

ii. All sampling performed on the POU treatment devices; (11-17-05)T

iii. Maintenance logs and schedules; (11-17-05)T

iv. Log of installed units; and (11-17-05)T

v. Contracts, lease agreements, or other legal documents with vendors and consumers. (11-17-05)T

0~~2~~3. Use of Bottled Water. 40 CFR 141.101, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0602

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 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth 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. The 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, August 2, 2006, Vol. 06-8, pages 140 through 234. After consideration of public comments, the proposed rule has been revised at Sections 003, 005, 008, 010, 501-504, 510, 513, 541, 544, and 552. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0602_pending.cfm or by contacting the undersigned.

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

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 these rules. 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 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. These rules include facility and design 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. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design 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.

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 rulemaking, contact Tom John, thomas.john@deq.idaho.gov, (208)373-0191.

Dated this 16th day of November, 2006.

THIS 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 August 16, 2006. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to initiate phase two of the effort to comply with Section 2 of Senate Bill 1220 (2005), which directed the Department of Environmental Quality (DEQ) to develop facility and design standards for both drinking water and wastewater systems. This is the drinking water portion. DEQ proposes to revise Sections 549 through 551 to add provisions for drinking water pumping facilities, treatment works, chemical application, source development, and management of treatment waste residuals. This rulemaking also revises the rules as necessary for consistency with changes made during the negotiated rulemaking process and includes housekeeping changes based on feedback from the regulated community and DEQ staff who routinely use the rules.

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. Drinking water system owners and operators, developers, consultants, engineers, cities, counties, industry, drinking water professional organizations, and the public at large may be interested in participating in this rulemaking.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2006 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2007 legislative session if approved by the Legislature.

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

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 these rules. 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 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. These rules include facility and design 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. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design 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.

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, January 4, 2006, Vol. 06-1, page 133.

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, thomas.john@deq.idaho.gov, (208)373-0191.

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 August 30, 2006.

Dated this 30th day of June, 2006.

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

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. The following documents are incorporated by reference into these rules. (4-11-06)

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. (4-11-06)

~~***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).* *(4-11-06)*~~

~~**c**~~**b.** American Water Works Association (AWWA) Standards, ~~*Edition*~~ effective July 200~~5~~6, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ~~*(4-11-06)*~~(____)

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: (4-11-06)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or http://

www.gpoaccess.gov/index.html. (4-11-06)

b. All documents incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (4-11-06)

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 www.adm.idaho.gov/adminrules/rules/idapa37/37index.htm, or 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, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337.* *(4-11-06)*~~

~~***l***~~**k.** 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~~**l.** 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)

m. American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, www.awwa.org. (____)

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. Manual of Cross-Connection Control, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP-200 University Park MC-2531, Los Angeles, CA 90089-2531, (866)545-6340, www.usc.edu/dept/fccchr/. (____)

p. Manual on Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, www.awwa.org. (____)

q. Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers,1801Alexander Bell Drive, Reston, VA 20191, (800)548-2723, www.asce.org. (____)

r. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (____)

s. Water System Design Manual, DOH Pub #331-123 (Rev. 8/01), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (____)

t. Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, http://www.franklin-electric.com/Manual/pdf/fullAIM.pdf. (____)

u. Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, http://www.epa.gov/safewater/mdbp/implement.html. (____)

v. Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, www.standardmethods.org. (____)

~~o~~**w.** ~~*"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.~~ F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02). ~~(4-11-06)~~( )

~~p~~**x.** "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. (4-11-06)

~~q~~**y.** 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. ~~(4-11-06)~~( )

z. Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, http://dbs.idaho.gov/safety_code/000.html. ( )

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. (4-11-06)

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)

01. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

02. Administrator. The Administrator of the United States Environmental Protection Agency. (4-5-00)

03. Annual Samples. Samples that are required once per calendar year. (12-10-92)

04. Annular Opening. As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). ( )

0~~4~~5. Aquifer. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)

0~~5~~6. Available. Based on system size, complexity, and source water quality, a properly licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-6-05)

0~~6~~7. Average ~~Daily~~ Day Demand. The volume of water used by a system on an average day based on a one (1) year period. ~~(12-10-92)~~(____)

0~~7~~8. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

0~~8~~9. Board. The Idaho Board of Environmental Quality. (5-3-03)

~~09~~10. Capacity. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (4-6-05)

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

1~~0~~1. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

12. Components of Finished Water Storage. (____)

a. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. ( )

b. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in paragraphs 003.12.c. through 003.12.f. ( )

c. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; ( )

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or ( )

ii. The volume needed to compensate for the sensitivity of the water level sensors. ( )

d. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak *hour demand*. ( )

e. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. ( )

f. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. ( )

1~~1~~3. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

1~~2~~4. Compositing of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

1~~3~~5. Confining Layer. A nearly impermeable subsurface stratum which is located

adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

1~~4~~6. **Confirmation Sample**. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

1~~5~~7. **Connection**. Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

1~~6~~8. **Consumer**. Any person served by a public water system. (12-10-92)

1~~7~~9. **Consumer Confidence Report (CCR)**. An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

~~18~~20. **Contaminant**. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

~~19~~21. **Cross Connection**. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

2~~0~~2. **Department**. The Idaho Department of Environmental Quality. (12-10-92)

*22. **Dead End Main**. A distribution main of any diameter and length that does not loop back into the distribution system.* (____)

2~~0~~3. **Department**. The Idaho Department of Environmental Quality. (12-10-92)

2~~1~~4. **Director**. The Director of the Department of Environmental Quality or his designee.(12-10-92)

2~~2~~5. **Disinfection**. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration or dosage, and for the time required to kill or inactivate pathogenic and indicator organisms.

~~(5-3-03)~~(____)

2~~3~~6. **Disinfection Profile**. A summary of daily Giardia lamblia inactivation through the

drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

2~~4~~7. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-16-04)

2~~8~~8. Drinking Water. Means "water for human consumption". ( )

2~~5~~9. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

~~26~~30. DWIMS. Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

~~27~~31. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

~~28~~32. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

~~**29. Equalization Storage**. *Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak daily usage.* (4-6-05)~~

3~~0~~3. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

3~~4~~4. Facility Plan. The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. ( )

3~~1~~5. Facility Standards and Design Standards. Facility standards and design standards are described in Sections 5~~49~~00 through 552 of these rules. Facility and design standards found in Sections 5~~49~~00 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities.

~~(4-11-06)~~( )

3~~2~~6. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

3~~3~~7. 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~~8~~8. Finished Water. Water that has completed all treatment processes and is ready for delivery to consumers. (____)

***39. Fire Flow Capacity**. The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority.* (____)

~~3~~40. 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)

~~35~~41. Groundwater System. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

~~36~~42. 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)

~~37~~43. 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)

~~38~~44. 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)

~~39~~45. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen.(12-10-92)

4~~0~~6. 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~~1~~7. 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~~2~~8. Log. Logarithm to the base ten (10). (12-10-92)

4~~3~~9. 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. (4-11-06)

~~44~~50. Material Modification. For the purpose of plan and specification review requirements as specified in Subsection ~~551.04~~ 504.03, those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. ~~(4-11-06)~~(____)

~~4~~51. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (11-17-05)T

~~46~~52. Maximum ~~Daily Consumption~~ Day Demand Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest ~~on record~~ for the design year.

~~(12-10-92)~~(____)

~~**47. Maximum Hourly Demand**. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)~~

~~48~~53. 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)

~~49~~54. **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)

5~~0~~5. **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)

5~~1~~6. **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)

5~~2~~7. **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)

5~~3~~8. **Non-Potable Mains**. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

5~~4~~9. **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. (4-11-06)

~~55~~60. **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~~61. **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)

~~57~~62. **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)

~~58~~63. **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)

~~59~~64. **Peak Hour~~ly Flow~~ Demand**. The highest hourly flow, ~~during any day~~ *excluding fire flow, that* a water system or distribution system pressure zone is likely to experience in the

design year. ~~(12-10-92)~~(____)

6~~0~~5. 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)

6~~1~~6. 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)

67. Plant. A physical facility where drinking water or wastewater is treated or processed.(____)

6~~2~~8. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (11-17-05)T

6~~3~~9. Point of Use (POU) Treatment System. A collection of POU treatment devices. (11-17-05)T

~~64~~70. Potable ~~Water~~ Mains. Pipelines that deliver potable water to multiple service connections.

~~(4-11-06)~~(____)

~~65~~71. Potable ~~Water~~ Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. ~~(4-11-06)~~(____)

72. Preliminary Engineering Report. The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. However, the preliminary engineering report shall describe modifications to the facility plan that may be required as a result of the proposed project. (____)

~~66~~73. 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)

~~67~~74. 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)

~~68~~75. **Public Water System/Water System/System**. Means "public drinking water system".(4-5-00)

76. **Pump House**. An above-grade structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well 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.

(____)

~~69~~77. **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. (4-11-06)

78. **Regulated Public Utility**. For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. (____)

7~~0~~9. **Repeat Compliance Period**. Any subsequent compliance period after the initial compliance period. (12-10-92)

~~71~~80. **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)

~~72~~81. **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)

~~73~~82. **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.~~ 504.03.b. of these rules, the qualified Idaho licensed professional engineer is also the reviewing authority. ~~(4-11-06)~~(____)

~~74~~83. **Sampling Point**. The location in a public water system from which a sample is drawn. (12-10-92)

~~75~~84. **Sanitary Defects**. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

~~76~~**85.** **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)

~~77~~**86.** **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)

87. **Sewage**. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.

( )

~~7~~**88.** **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)

~~79~~**89.** **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)

~~80~~**90.** **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)

~~81~~91. **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)

~~82~~92. **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)

~~83~~93. **SUVA (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)~~(____)

~~84~~94. **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)

~~85~~95. **Transient Noncommunity Public 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)~~(____)

~~86~~96. **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)

~~87~~97. **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)

~~88~~98. **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)

~~89~~9. **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)

~~90~~100. **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)

~~91~~101. **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)

~~92~~102. **Volatile Organic Chemicals (VOCs)**. VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

~~93~~103. **Vulnerability Assessment**. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

~~94~~104. **Waiver**. (12-10-92)

a. For the purposes of these rules, except Sections 5~~5~~00 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 5~~5~~00 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)

105. **Wastewater**. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present.
(____)

~~95~~106. **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)

~~96~~107. **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)

~~97~~108. **Water Main Extension**. As used in Subsection ~~551.04~~ 504.03, 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. ~~(4-11-06)~~(____)

109. **Watershed**. The land area from which water flows into a stream or other body of water which drains the area. (____)

~~**98.** ***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)

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4, revised as of July 1, 2004, is herein incorporated by reference. (4-6-05)

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 5~~5~~00 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. ~~(5-3-03)~~(_____)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (5-3-03)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

008. HEALTH HAZARDS.

01. Prohibited. (10-1-93)

a. No public water system, or portion of a public water system, shall constitute a health hazard, as determined by the Department and defined in Section 003 of these rules. (5-3-03)

b. No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department. (5-3-03)

02. Schedule. Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department and terminated within a time schedule established by the Department. (5-3-03)

03. Standards. Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections ~~*550 and 551*~~ *501 through 552*, unless otherwise specified by the Department. ~~*(10-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.
All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. (10-1-93)

02. Fee Schedule. (10-1-93)

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	$100
21 to 184	$5 per connection, not to exceed a total of $735 per system
185 to 3,663	$4 per connection, not to exceed a total of $10,988 per system
3,664 or more	$3 per connection

(7-1-97)

b. The annual fee for transient public drinking water systems is twenty-five dollars ($25). (10-1-93)

c. New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

03. Fee Assessment. (10-1-93)

a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information System (SDWISS). (3-15-02)

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWISS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWISS is not in agreement with the system's records. (3-15-02)

c. The official number of connections listed in SDWISS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year

of October 1 through September 30. (3-15-02)

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWISS by the Department on or before September 1 of each year. (3-15-02)

05. Payment. (10-1-93)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (10-1-93)

b. If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

d. If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (10-1-93)

06. Delinquent Unpaid Fees. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (10-1-93)

07. Suspension of Services and Disapproval Designation. (7-1-97)

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: (7-1-97)

i. Issuance of monitoring waivers; (7-1-97)

ii. Review and processing of engineering reports; and (7-1-97)

iii. Review of plans and specifications for design and construction as set forth in

Sections ~~550 and 551~~ 501 through 552. ~~(7-1-97)~~(____)

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: (7-1-97)

i. Review and processing of engineering reports; (7-1-97)

ii. Review of plans and specifications for design and construction as set forth in Sections ~~550 and 551~~ 501 through 552; ~~(7-1-97)~~(____)

iii. Renewal of monitoring waivers; or (7-1-97)

iv. Granting of new monitoring waivers. (7-1-97)

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06. (7-1-97)

08. Reinstatement of Suspended Services and Approval Status. The suspension of technical services and/or the disapproval of a public water system pursuant to Subsection 010.07 may be reinstated upon payment of delinquent annual fee assessments. (7-1-97)

09. Enforcement Action. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. (7-1-97)

10. Responsibility to Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. (7-1-97)

(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. ~~(4-11-06)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~500~~*451. *Treatment Techniques.

01. General Requirements. 40 CFR 141.110 is herein incorporated by reference. (10-1-93)

02. Acrylamide, Epichlorohydrin. 40 CFR 141.111 is herein incorporated by reference. (12-10-92)

45~~1~~2. -- 499. (RESERVED).

~~501. -- 548. (RESERVED).~~

5~~49~~00. 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*~~ 504.03 of these rules. The Department shall issue its approval of the new system capacity demonstration in writing. ~~*(4-11-06)*~~(____)

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*~~ 501 through 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~~ 501 through 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)

5~~5~~01. FACILITY AND DESIGN STANDARDS -- GENERAL DESIGN ~~*STANDARDS*~~ REQUIREMENTS 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 the facility and design standards set forth in Sections 006 and 500 through 552 of 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," except Parts One (1) and Eight (8)*~~. The following general design requirements shall apply as applicable for the type of water system and the treatment or other processes employed. ~~*(4-11-06)*~~(____)

0~~2~~1. Materials Used in Construction. 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*~~ shall conform to applicable AWWA standards and/or be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 53~~*, 58, or*~~ and 61, referenced in Subsection 002.02. Corrosion control shall be taken into account during all aspects of public water system design. ~~*(4-6-05)*~~(____)

02. Additives Used in Operation. 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 AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 60, referenced in Subsection 002.02. (____)

03. Design Basis. The system, including the water source and treatment facilities, shall be designed to provide either peak hour demand of the system or peak daily pumping demand plus equalization storage at the design year. (____)

04. Design of Treatment Facilities. Design of treatment facilities shall address: (____)

a. Functional aspects of facility layout and provisions for future facility expansion; (____)

b. Provision for expansion of waste treatment and disposal facilities; ( )

c. Roads constructed to provide year-round access by vehicles and equipment needed for repair and maintenance; ( )

d. Site grading and drainage; and ( )

e. Chemical delivery. ( )

05. Design of Buildings. The design of buildings that are a part of public drinking water systems shall provide for: ( )

a. Adequate ventilation, lighting, heating, and air conditioning; ( )

b. Adequate drainage; ( )

c. Dehumidification equipment, if necessary; ( )

d. Accessibility of equipment for operation, servicing, and removal; ( )

e. Flexibility and convenience of operation and safety of operators; and ( )

f. Separate room(s) for chemical storage and feed equipment to reduce hazards and dust problems. ( )

06. Electrical. Main switch gear electrical controls shall be located above grade, in areas not subject to flooding. All electrical work shall conform to the requirements of the National Electrical Code or to relevant state and/or local codes. The National Electrical Code is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (617)770-3000, http://www.nfpa.org. ( )

07. Reliability and Emergency Operation. New community water systems constructed after April 15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, and/or storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average *day* demand plus fire flow where provided. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system. ( )

a. The Department may require the installation of standby power or storage facilities in existing systems if the frequency and duration of power outages a system experiences constitute a health hazard. ( )

b. Existing community public water systems that are substantially modified after April 15, 2007 shall meet the requirements of Subsection 501.07. in those portions of the system affected by the modifications. ( )

i. For the purposes of Subsection 501.07., 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: ( )

(1) Population served or number of service connections. ( )

(2) Total length of transmission and distribution water mains. ( )

(3) Peak or average water demand per connection. ( )

ii. New sources and booster pumps intended to increase system capacity shall be provided with standby power or equivalent. ( )

c. For both new and existing public water systems, the Department may reduce the requirements of Subsection 501.07 if the system can demonstrate the capacity to adequately protect public health during a power outage. Any decision by the Department will be based on, but not limited to, the following considerations: ( )

i. An adequate emergency response and operation plan and the capacity to implement that plan. ( )

ii. The adequacy of the system's cross connection control program and the capacity to protect public health in the event of a system wide depressurization. ( )

iii. Demonstration of historical and projected reliability of the electrical power supplied to the water system. ( )

iv. A strategy for providing information to the public during power outages, including instructions to stop irrigation, boil water, etc., until notified otherwise. ( )

v. The level of reliability acceptable to consumers. This can be accomplished with either a vote of the majority of consumers for privately owned and operated systems or a decision by the governing body for publicly governed systems. ( )

vi. Other considerations that may be pertinent, including connections to other public water systems, agreements to provide water in emergency situations, and the availability of dedicated portable auxiliary power. ( )

08. On-Site Analysis and Testing Capabilities. Each public water system shall have equipment and facilities for routine testing necessary to ensure proper operation. Equipment selection shall be based on the characteristics of the raw water source and the complexity of the treatment process involved. ( )

09. Sample Taps. Sample taps shall be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps owned by the water system and used for obtaining samples for bacteriological

analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance. ( )

10. **Facility Potable Water Supply**. The facility water supply service line and the plant finished water sample tap shall be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time, if applicable, has been achieved. There shall be no cross connections between the facility water supply service line and any piping, troughs, tanks, or other treatment units containing wastewater, treatment chemicals, raw or partially treated water. ( )

11. **Meters**. All water supplies shall have an acceptable means of measuring the flow from each source, the wash water, the recycled water, any blended water of different quality, and the finished water. ( )

12. **Operation and Maintenance Manual**. An operation and maintenance manual or manuals shall be provided for all public water systems. The manual shall include, but is not limited to, the following contents: daily operating instructions, operator safety procedures, location of valves and other key system features, parts list and parts order form, and information for contacting the water system operator. An operational trouble-shooting section shall be supplied to the water works as part of any proprietary unit installed in system facilities. ( )

13. **Start-Up Training**. Provisions shall be made for operator instruction at the start-up of a new plant or pumping station. ( )

14. **Safety**. Consideration shall be given to the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. The design shall comply with all applicable safety codes and regulations that may include the Uniform Building Code, Uniform Fire Code, National Fire Protection Association Standards, and state and federal OSHA standards. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers. ( )

15. **Security**. Appropriate design measures to help ensure the security of water system facilities shall be incorporated. Such measures, at a minimum, shall include means to lock all exterior doorways, windows, gates and other entrances to source, treatment, pumping stations, and water storage facilities. ( )

16. **Other Regulations**. Consideration must be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, and construction in the flood plain. ( )

17. ***Redundant Fire Flow Capacity***. *( )*

a. *Public water systems that provide fire flow shall be designed to provide maximum day demand plus fire flow instead of peak hour demand plus fire flow. This allowance is made because distribution pressures can be expected to fall during a fire event and overall demand*

would be less than peak hour. Pumping systems supporting fire flow capacity must be designed so that fire flow may be provided with the largest pump out of service. ( )

b. *The requirement for redundant pumping capacity specified in Subsection 501.17.a. may be reduced to the extent that storage is provided in sufficient quantity to meet some or all of fire flow demands. Where storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met:* ( )

i. *The local fire authority states in writing that the fire flow capacity of the system is acceptable and is compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system.* ( )

ii. *In a manner appropriate to the system type and situation, positive notification is provided to customers that describes the design of the system's fire fighting capability and explains how it differs from the requirements of Subsection 501.17.a. The notice shall indicate that the local fire authority has provided written acceptance of the system's fire flow capacity.* ( )

502. FACILITY AND DESIGN STANDARDS - FACILITY PLANS.
See the definition of Facility Plan in Section 003. ( )

01. Facility Plans Required. All new public drinking water systems, and existing public drinking water systems undergoing material modificaton or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 500 through 552 of these rules including, but not limited to, hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall infrastructure. Material modification or expansion that requires a facility plan includes upgraded, or rehabilitated public drinking water system facilities. Facility plans must address the entire potential service area of the project. Facility plans are not required for minor or routine distribution system projects. Determination of projects that are considered to be minor or routine shall be made by the Department based on a review of the owner's recommendations and accompanying rationale. ( )

02. Submittal to the Department. Facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. In the case of water main extensions reviewed by a qualified Idaho licensed professional engineer pursuant to Subsection 504.03.b., an updated facility plan shall be submitted to the Department for review and approval unless the reviewing authority already has a Department approved facility plan in his possession. ( )

03. Facility Plan Contents. The facility plan must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The facility plan generally addresses the overall system-wide plan. The facility plan shall identify and evaluate problems related to the drinking water system; assemble basic information; present criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; describe financing methods; set forth anticipated charges for users; review organizational and staffing requirements; offer a conclusion with a proposed project for client consideration; and outline official actions and procedures to implement the project. If the project is funded by the state

revolving fund or a grant, other requirements may also apply. See IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Public Drinking Water Facilities." A checklist, which can be used as guidance, can be found at http://www.deq.idaho.gov/water/permits_forms/forms/drinking_water/form_i_report_checklist.pdf. The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of a facility plan for any proposed project. ( )

04. **Engineer's Seal Required**. Facility plans submitted *to the Department shall* bear the imprint of *an Idaho licensed professional* engineer's seal that is both signed and dated by the engineer. ( )

503. FACILITY AND DESIGN STANDARDS - PRELIMINARY ENGINEERING REPORTS.

See the definition of Preliminary Engineering Report in Section 003. For all new water systems or material modifications to existing water systems, a preliminary engineering report shall be submitted to the Department for review and approval, or other reviewing authority in the case of water main extensions, prior to the submittal of plans and specifications as required in Subsection 504.03. Preliminary engineering reports are not required for minor or routine distribution system projects designed under a facility plan. This report shall provide the following: ( )

01. **Engineer's Seal**. Preliminary engineering reports submitted *to the department shall* bear the imprint of *an Idaho licensed professional* engineer's seal that is both signed and dated by the engineer. ( )

02. **Location**. A general description and location of the project. ( )

03. **Population**. The estimated design population of the project. ( )

04. **Water Quantity**. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hourly, peak daily, and average *day* demands. ( )

05. **Storage**. Storage requirements. ( )

06. **Operating Pressure**. Pressure ranges for normal and peak flow conditions. ( )

07. **Hydraulic Analysis**. 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. The type and/or sophistication of analysis shall be dependent on the type of system. ( )

08. **Sources of Water**. 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 and demonstrate the actual availability of water in sufficient quantity to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. ( )

09. **Sewage**. Describe the sewage collection 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. ( )

10. **Treatment Wastes**. Characterize the various wastes from the water treatment processes and, if applicable, their volumes, constituents, and proposed treatment and disposal. If discharging to a sanitary sewage 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. ( )

11. **Monitoring Results - Community Systems**. 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. ( )

12. **Monitoring Results - Nontransient Noncommunity Systems**. 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. ( )

13. **Monitoring Results - Transient Noncommunity Systems**. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. ( )

14. **Turbidity**. 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. ( )

15. **Evaluation of Surface Water Influence**. For all new ground water 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 surface water. This requirement shall also apply to any existing ground water source that is found to be at risk of surface water influence during a field survey conducted by the Department. ( )

16. **Potential Contamination**. Identify sources of contamination near proposed sources of water and describe how the sources will be protected. ( )

17. **Flooding**. Mechanisms for protection of the system from flooding. ( )

18. **Additional Information - Surface Water**. In addition to the items listed in Subsections 503.01 through 503.17, the following information must be provided for proposed surface water sources and ground water sources under the direct influence of surface water: ( )

a. Hydrological and historical stream flow data. ( )

b. A copy of the water right(s) from the Idaho Department of Water Resources. ( )

c. Anticipated turbidity ranges, high and low. ( )

d. Treatment selection process and alternative evaluations. ( )

e. Assessment of the degree of control the water system will be able to exercise over the watershed. ( )

f. Projected future uses of impoundments or reservoirs within the watershed. ( )

g. Assess degree of hazard to the supply by agricultural, industrial, recreational, and residential activities in the watershed, and by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes. ( )

h. Assess all waste discharges and activities that could impact the water supply. The location of each waste discharge shall be shown on a scale map. ( )

i. Obtain source water samples over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water. ( )

j. Consideration of currents, wind and ice conditions, and the effect of confluent streams. ( )

19. Additional Information - Ground Water. ( )

a. In addition to the items listed in Subsections 503.01 through 503.17, the following information must be provided for a proposed ground water source: ( )

i. A site evaluation report as required in Section 510 for wells and Section 514 for springs. ( )

ii. Dimensions of the well lot and location of source. Include geographical coordinates of the source location. ( )

iii. Underground geological data and existing well logs. ( )

b. 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. ( )

c. A copy of the water right(s) from the Idaho Department of Water Resources. ( )

20. Soils and Ground Water Levels. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: ( )

a. The character of the soil through which water mains are to be laid. ( )

b. Characteristics of the soil, water table, and geological substrate that may affect the

design and construction of the foundations of proposed structures. ( )

c. The approximate elevation of ground water in relation to subsurface structures. ( )

504. FACILITY AND DESIGN STANDARDS - REVIEW OF PLANS AND SPECIFICATIONS.
The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02., shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. ( )

01. 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 504.03. 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. ( )

02. 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 the purveyor will be able to provide services to the proposed project. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. ( )

03. Plans and Specifications Required. ( )

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 approval. If construction does not commence within twelve (12) months of the Department's final approval, the Department may require re-submittal of all or part of the plans and specifications. ( )

b. 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 utilitity, 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. Any plans approved pursuant to Subsection 504.03.b. shall be transmitted to the Department at the time construction is authorized along with a statement that the plans comply with the requirements of these rules and that construction has been authorized by the city, county, quasi-municipal corporation or regulated public utility that will own and operate the system. ( )

c. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. ( )

d. New or updated operation and maintenance manual or manuals, as required in Subsection 501.12, shall be submitted to the Department for review and approval prior to start-up of the new or modified public water system. ( )

04. Criteria for Review. 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 judgment for that of the owner's design engineer concerning the manner of compliance with the rule. ( )

05. Schedule for Review. 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 504.05 with such records including the final decision rendered and the timeliness thereof. ( )

06. Engineer's Seal Required. Plans and specifications submitted *to the department shall* bear the imprint of *an Idaho licensed professional* engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: ( )

a. Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. ( )

b. Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

07. Contents of Plans and Specifications. Plans and specifications shall, where pertinent, provide the following: ( )

a. General layout, including: ( )

i. Suitable title. ( )

ii. Name of municipality or other entity or person responsible for the water supply. ( )

iii. Area or institution to be served. ( )

iv. Scale of drawings. ( )

v. North arrow. ( )

vi. Datum used. ( )

vii. General boundaries of municipality or area to be served. ( )

viii. Date, name, and address of the designing engineer. ( )

ix. Legible prints suitable for reproduction. ( )

x. Location and size of existing water mains, if applicable. ( )

xi. For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ( )

b. Detailed plans, including: ( )

i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. ( )

ii. 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. ( )

iii. Topography and arrangement of present or planned wells or structures. ( )

iv. 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. ( )

v. 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 Section 510. ( )

vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. ( )

vii. Size, length, and materials of proposed water mains. ( )

viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. ( )

ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. ( )

x. Piping in sufficient detail to show flow through the plant including waste lines. ( )

xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. ( )

xii. 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. ( )

xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. ( )

xiv. Locations, dimensions, and elevations of all proposed plant facilities. ( )

xv. Locations of all sampling taps owned by the water system. ( )

xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ( )

c. Complete, detailed technical specifications shall be supplied for the proposed project, including: ( )

i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. ( )

ii. Laboratory facilities and equipment. ( )

iii. Description of chemical feeding equipment. ( )

iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water shall be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications shall outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. ( )

v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ( )

d. Complete design criteria, as set forth in these rules. ( )

e. 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. ( )

08. Notification of Material Deviations. As set forth in Subsection 504.03, during construction or modification, the reviewing authority must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any

material deviation is allowed. (____)

09. Record Plans and Specifications Required. Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 504.03, 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 Department by the engineer representing the city, county, quasi-municipal coporation 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 an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (____)

10. Exception. 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. (____)

11. Requirement to Have Approved Plans and Specifications and Approval Letter On-Site During Construction. It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (____)

12. Construction. Except as provided in Subsection 504.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a public drinking water system facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. (____)

505. -- 509. (RESERVED).

510. FACILITY AND DESIGN STANDARDS - SITING AND CONSTRUCTION OF WELLS.

~~*03. wells.*~~ Written approval by the Department is required before water from any new or reconstructed well may be served to the public. 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*~~**01. Site Approval**. Prior to drilling, the site of a ~~*PWS*~~ public water system 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*~~**a.** An evaluation of the potability and quality of anticipated groundwater. (5-3-03)

~~*ii*~~**b.** 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*~~**c.** An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

~~*iv*~~**d.** 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 as determined by the Idaho Department of Water Resources permitting process. ~~*(5-3-03)*~~( )

~~*v*~~**e.** 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*~~**f.** Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

~~*b*~~**02. Location**. Each well shall be staked by the design engineer *or licensed professional geologist* prior to drilling, be located a minimum of fifty (50) feet from ~~*any potential source of contamination*~~ the nearest property line, and be 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*~~**03. Construction Standards**. ~~*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:*~~ In addition to meeting the requirements of these rules, all wells shall be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells shall comply with the drilling permit requirements of Section 42-235, Idaho Code. (5-3-03)

a. Casing that meets the requirements set forth in Subsection 900.03 (Table 3). The use of plastic well casing for public water system wells may be considered on a case-by-case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61. ( )

b. Public water system wells shall have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: ( )

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)

iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02. ( )

c. Specifications shall include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. ( )

d. Geological data shall be collected at each pronounced change in formation and shall be recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. ( )

e. The owner of each well shall retain all records pertaining to each well until the well has been properly abandoned. ( )

f. Wells with intake screens shall: ( )

i. Be constructed of materials resistant to damage by chemical action of ground water or cleaning operations. ( )

ii. Have openings based on sieve analysis of formation and/or gravel pack materials. ( )

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point three (0.3) feet per second, or as otherwise approved by the Department. ( )

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it shall be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. ( )

g. Permanent well casing shall be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.a. of these rules, or by the Rules of the Idaho Water Resources Board referenced in Subsection 002.02, whichever is more stringent. All casing identified in plans and specifications as temporary casing shall be removed prior to

well completion. ( )

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, shall be used for one and one-half (1 ½) inch openings. Additives may be used to enhance effectiveness and are subject to approval by the reviewing authority and the Idaho Department of Water Resources on a case-by-case basis. ( )

ii. Bentonite grout shall have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout shall not be used above the water table. All bentonite grout shall be installed by positive displacement from the bottom up through a tremmie or float shoe. ( )

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing shall be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite shall be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. ( )

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet shall require an annulus of at least three (3) inches on all sides of the casing, or as approved by the reviewing authority and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. ( )

v. All chip bentonite seals installed through water shall only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water shall be: ( )

(1) Installed in accordance with manufacturer's specifications; or ( )

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or ( )

(3) Installed using coated pellets to retard hydration if approved by the reviewing authority and the Idaho Department of Water Resources. ( )

vi. Concrete may be approved on a case-by-case basis by the reviewing authority and the Idaho Department of Water Resources. Upon such approval, the approved method shall use a six (6) sack minus one-half (1/2) inch Portland cement concrete and shall be installed by positive displacement from the bottom up through a tremmie pipe. ( )

~~4~~**04.** **Disinfection**. All tools, bits, pipe, and other materials to be inserted in the borehole

~~*must*~~ shall be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, ~~*as set forth*~~ referenced in Subsection 002.02~~*.f.*~~ This applies to new well construction and repair of existing wells. ~~*(5-3-03)*~~(____)

~~*e*~~**05.** **Information Required**. 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.** A copy of all well logs; (12-10-92)

~~*ii*~~**b.** Results of test pumping, as specified in S~~*ubs*~~ection ~~*550.03.f.*~~ 510; ~~*(5-3-03)*~~(____)

~~*iii*~~**c.** As constructed plans showing at least the following: (12-10-92)

~~*(1)*~~i. 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)*~~ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

~~*(4)*~~iii. Pump location; and (12-10-92)

~~*(5)*~~iv. 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. Where pneumatic or electronic water level measuring equipment is used, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. ~~*(5-3-03)*~~(____)

~~*iv*~~**d.** Other information as may be specified by the Department. (12-10-92)

~~*v*~~**e.** Sampling results for iron, manganese, corrosiv~~*ely*~~ity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in S~~*ubs*~~ection ~~*551.01*~~ 503. ~~*(5-3-03)*~~(____)

~~*f*~~**06.** **Test Pumping**. Upon completion of a ground water source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

~~*i*~~**a.** 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 trend has stabilized, as determined by the supervising engineer or geologist. 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 trend has stabilized, as determined by the supervising engineer or geologist. ~~*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 of the water system shall be re-evaluated and submitted to the Department for approval. ~~*(5-3-03)*~~(____)

~~*ii*~~**b.** Upon completion of well development, the well shall be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), 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*~~ or re-developed. ~~*(5-3-03)*~~(____)

~~*iii*~~**c.** The following data shall be provided: (5-3-03)

~~*(1)*~~i. Static water level in the well prior to test pumping; (5-3-03)

~~*(2)*~~ii. 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)*~~iii. Water level in the well recorded at regular intervals during pumping; (5-3-03)

~~*(4)*~~iv. Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

~~*(5)*~~v. Depth at which the test pump was positioned in the well; (5-3-03)

~~*(6)*~~vi. Test pump capacity and head characteristics; (5-3-03)

~~*(7)*~~vii. Sand production data. (5-3-03)

~~*(8)*~~viii. 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*~~**d.** 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*~~ 510.06.c. 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*~~**e.** 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. (4-11-06)

07. Conversion of Irrigation Wells for Public Water System Use. An irrigation well may be considered for use as a public water system source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well is constructed in a manner that is protective of public health and that both the quantity and quality of water produced by the well meet public water system standards set forth in these rules. ( )

08. Observation Wells. If observation wells are used and are intended to remain in service after completion of the water supply well, the observation wells shall be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. ( )

09. 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 ground water, 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. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. ( )

511. FACILITY AND DESIGN STANDARDS - WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.

~~g~~01. Sample Tap Required. 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~~02. Discharge Piping. 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, and shall meet the following requirements~~;~~: ~~(4-6-05)~~( )

a. Be designed to minimize friction loss. ( )

b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. ( )

c. Be protected against contamination. ( )

d. Vertical turbine pumps shall be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. ( )

e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. ( )

f. Be properly anchored to prevent movement, and protected against surge or water hammer. ( )

~~i~~**03. Pressure Gauge Required**. A pressure gauge shall be provided at all installations~~;~~. ~~(12-10-92)~~( )

~~j~~**04. Flow Meter and Check Valve**. Unless otherwise approved by the Department, ~~A~~ an instantaneous and totalizing flow meter equipped with nonvolatile memory 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~~**05. Well Vent**. All wells ~~except flowing artesian wells~~ shall be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet, 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~~**06. Casings and Sanitary Well Caps**. The following requirements apply to well casings and ~~seals~~ sanitary caps: ~~(12-10-92)~~( )

~~i~~**a.** Casings shall extend a minimum of eighteen (18) inches above the final ground surface and, if the well is located within a ~~well~~ pump house, twelve (12) inches above the ~~well~~ pump house floor. If local hydrological conditions require that a well be located in an area subject to flooding, the Department may require extension of the casing to extend above the one hundred (100) year or highest known flood level. ~~(4-6-05)~~( )

~~ii~~**b.** Wells shall be cased and ~~sealed~~ provided with a sanitary cap 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~~07. ~~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:~~ **Well Houses**. For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. ~~(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*~~**08. Pitless Adapters and Units**. Pitless adapters or pitless units: ~~(12-10-92)~~(____)

~~(1)~~**a.** 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)~~**b.** Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

~~(3)~~**c.** 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*~~ referenced in Subsection 002.02~~*.d.*~~, or other procedure approved by the Department shall be followed. ~~(5-3-03)~~(____)

d. Pitless adapters with a two (2) inch or smaller discharge line shall be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. The hole in the casing shall be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. (____)

e. Shall be provided with a contamination-proof entrance connection for electrical cable. (____)

f. In the case of pitless adapters: (____)

i. Threaded adapters shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. (____)

ii. The only field welding permitted will be that needed to connect a pitless adapter to

the casing. ( )

g. In the case of pitless units: ( )

i. Shall be shop-fabricated from the point of connection with the well casing to the unit cap or cover. ( )

ii. Shall be constructed of materials and weight at least equivalent to and compatible with the well casing. ( )

iii. Shall be threaded or welded to the well casing. Threaded units shall be installed by drilling a hole not more than one quarter (¼) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. ( )

iv. Shall terminate at least eighteen (18) inches above final ground elevation or three (3) feet above the 100-year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. ( )

v. Shall be provided with access to disinfect the well. ( )

vi. Shall have field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. ( )

~~r~~09. Wells Not Allowed in Pits. Wells shall not be located in pits. Exceptions to ~~*Subsection 550.03.l.*~~ this requirement 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)*~~( )

10. Discharge Pumps. Discharge pumps shall be subject to the following requirements: ( )

a. Line shaft pumps shall. ( )

i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. ( )

ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. ( )

iii. Use lubricants that meet ANSI/NSF Standard 61. ( )

b. When a submersible pump is used: ( )

i. The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. ( )

ii. The electrical cable shall be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. (____)

512. FACILITY AND DESIGN STANDARDS - WELL LOT.

~~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 or easement 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~~**01. Use of Chemicals on the Well Lot**. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. ~~(12-10-92)~~(____)

~~r~~**02. Storage of Hazardous Materials on the Well Lot**. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other materials known to be toxic or hazardous ~~materials~~ shall be stored on a well lot, except that: ~~(5-3-03)~~(____)

~~i~~**a.** 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~~**b.** A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

~~iii~~**c.** 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~~**d.** Should the internal combustion engine be located within the ~~well~~ pump house, the floor of the ~~well~~ pump 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~~ pump house. ~~(5-3-03)~~( )

~~v~~**e.** 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)

03. Location of Hydrants. Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and/or compromising the grout seal surrounding the well casing. ( )

513. FACILITY AND DESIGN STANDARDS - NUMBER OF GROUND WATER SOURCES REQUIRED.

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. Under normal operating conditions, 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 day* demand plus equalization storage. *See Subsection 501.17 for general design requirements concerning fire flow capacity.* For the purpose of Section 513 only, 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: ( )

01. Population Served or Number of Service Connections.

02. Length of Water Mains.

03. Peak or Average Water Demand Per Connection.

514. FACILITY AND DESIGN STANDARDS - SPRING SOURCES.

~~*04. Springs*~~. Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department may require a site evaluation report as set forth for wells in S~~*ubs*~~ection ~~*550.03.a*~~ 510. 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*~~**01. Protection of the Spring**. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust~~;~~. The spring box shall be equipped with a screened overflow. The inlet shall be screened and located above the floor of the collection chamber. ~~(12-10-92)~~( )

02. Access to Spring Box. A watertight and locking access port shall be provided. The access port shall be elevated at least twenty-four (24) inches above the top of the box or covering sod, whichever is higher. ( )

~~*b*~~**03. Sample Tap Required**. A sample tap shall be provided~~;~~. ~~(12-10-92)~~( )

~~c~~**04.** **Flow Measurement**. A flow meter or other flow measuring device shall be provided~~; and~~. ~~(12-10-92)~~(____)

~~d~~**05.** **Protected Area**. 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)~~(____)

515. FACILITY AND DESIGN STANDARDS - SURFACE SOURCES AND GROUND WATER SOURCES UNDER THE DIRECT INFLUENCE OF SURFACE WATER.

~~05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water.~~ Written approval by the Department is required before water from any new surface source or ground water source that is under the direct influence of surface water may be served to the public. Infiltration collection lines or galleries are considered ground water under the direct influence of surface water unless demonstrated otherwise. Infiltration galleries that are not directly influenced by surface water shall meet the requirements of Section 514. The area around infiltration lines shall be under the control of the water purveyor for a distance acceptable to the Department. ~~(10-1-93)~~(____)

01. **Intake Structures**. Design of intake structures shall provide for: (____)

a. Withdrawal of water from more than one (1) level if quality varies with depth. (____)

b. Separate facilities for release of less desirable water held in storage. (____)

c. Where frazil ice may be a problem, holding the velocity of flow into the intake structure to a minimum, generally not to exceed point five (0.5) feet per second. Frazil ice is made up of randomly distributed ice crystals that are formed in flowing water that has cooled below thirty-two (32) degrees Fahrenheit and is prevented from forming into ice sheets by the movement of the water. (____)

d. Inspection manholes every one thousand (1000) feet for pipe sizes large enough to permit visual inspection. (____)

e. Cleaning the intake line as needed. (____)

f. Adequate protection against rupture by dragging anchors, ice, or other hazards. (____)

g. Ports located above the bottom of the stream, lake or impoundment, but at sufficient depth to be kept submerged at low water levels. (____)

h. Where shore wells are not provided, a diversion device capable of keeping large quantities of fish or debris from entering an intake structure. (____)

i. If necessary, provisions shall be made in the intake structure to control the influx of nuisance aquatic organisms. Specific control methods must be approved by the reviewing authority. ( )

j. When buried surface water collectors are used, sufficient intake opening area must be provided to minimize inlet headloss. Particular attention shall be given to the selection of backfill material in relation to the collector pipe slot size and gradation of the native material over the collector system. ( )

02. Raw Water Pumps. Raw water pumping wells shall: ( )

a. Have motors and electrical controls located above grade (except for submersible pumps), and protected from flooding as required by the reviewing authority. ( )

b. Be accessible and designed to prevent flotation. ( )

c. Be equipped with removable or traveling screens before the pump suction well. ( )

d. Provide for introduction of chlorine or other chemicals in the raw water transmission main if necessary for quality control. ( )

e. Where practical, have intake valves and provisions for back flushing or cleaning by a mechanical device and testing for leaks. ( )

f. Have provisions for withstanding surges where necessary. ( )

03. Offstream Raw Water Storage. An off-stream raw water storage reservoir is a facility into which water is pumped during periods of good quality and high stream flow for future release to treatment facilities. These off-stream raw water storage reservoirs shall be constructed to assure that: ( )

a. Water quality is protected by controlling runoff into the reservoir. ( )

b. Dikes are structurally sound and protected against wave action and erosion. ( )

c. Intake structures and devices meet requirements of Subsection 515.01. ( )

d. Point of influent flow is separated from the point of withdrawal. ( )

e. Separate pipes are provided for influent to and effluent from the reservoir. ( )

04. Reservoirs. Impoundments and reservoirs shall provide, where applicable: ( )

a. Removal of brush and trees to high water elevation. ( )

b. Protection from floods during construction. ( )

c. Abandonment of all wells which will be inundated, in accordance with requirements of the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (____)

516. -- 517. (RESERVED).

518. FACILITY AND DESIGN STANDARDS - ADDITIONAL DESIGN CRITERIA FOR SURFACE WATER TREATMENT.
Performance criteria for surface water treatment facilities are specified in National Primary Drinking Water Regulations, as set forth in Sections 300, 301, and 310 of these rules. Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: (____)

~~a. Design Criteria.~~ ~~(12-1-92)~~

~~i~~**01.** **Engineering Design Requirements**. 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. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. ~~(12-10-92)~~(____)

~~ii~~**02.** **Removal of Pathogens**. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts, two (2) log removal of Cryptosporidium oocysts, and one (1) log removal of viruses, except as allowed under Subsection ~~550.05.b.iii.; and~~ 518.09.b. ~~(10-1-93)~~(____)

~~iii~~**03.** **Disinfection**. Disinfection facilities shall be designed, constructed and operated so as to achieve at least ~~one half~~ point five zero (0.50) log inactivation of Giardia lamblia cysts; and ~~(10-1-93)~~(____)

~~(1)~~**a.** Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

~~(2)~~**b.** Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

~~(3)~~**c.** Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

~~(4)~~**d.** Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

~~iv~~**04.** **Enhanced Disinfection**. Higher levels of disinfection than specified under Subsection ~~550.05.a.iii.~~ 516.03 may be required by the Department in order to provide adequate protection against giardia and viruses. ~~(10-1-93)~~(____)

~~v~~**05.** **Filter to Waste**. For plants constructed after December 31, 1992, each filter unit

must be capable of filter to waste. 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)~~(____)

~~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~~**06. Continuous Turbidity Monitoring**. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter ~~bed~~ unit. ~~(5-3-03)~~(____)

~~viii~~**07**. **Continuous Monitoring of Disinfectant**. 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~~**08. Continuous Operation Required**. 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~~**09.** ~~Filtration technology~~ **Acceptable Technology**. The purveyor shall select a filtration technology acceptable to the Department. ~~(12-10-92)~~(____)

~~i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)~~

~~ii~~**a.** 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~~**b.** Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

~~(1)~~i. That the filtration technology: (12-10-92)

(~~a~~1) 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~~2) Removes at least ninety-nine percent (99%) (two (2) logs) of Cryptosporidium oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (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)~~ii. ~~Using~~ Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: ~~(12-10-92)~~(____)

(~~a~~1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of Cryptosporidium oocysts or surrogate particles and 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~~2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

~~e~~**10.** **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~~**a.** 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~~**b.** The design and operation of the pilot study shall be overseen by an Idaho licensed professional engineer. ~~(12-10-92)~~(____)

~~iii~~**c.** The system's pilot study plan shall identify at a minimum: (12-10-92)

~~(1)~~i. The objectives of the pilot study; (12-10-92)

~~(2)~~ii. Pilot filter design; (12-10-92)

~~(3)~~iii. Water quality and operational parameters to monitor; (12-10-92)

~~(4)~~iv. Amount of data to collect; and (12-10-92)

~~(5)~~v. Qualifications of the pilot plant operator. (10-1-93)

~~iv~~**d.** The system shall ensure that the pilot study is: (12-10-92)

~~(1)~~i. Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

~~(2)~~ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

~~(3)~~iii. 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)~~iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

~~d~~**11.** ~~*New*~~ **Redundant Disinfection**. Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site

as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. ~~(5-3-03)~~(____)

519. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT; DESIGN STANDARDS FOR MICROSCREENING.
A microscreen may be used to reduce nuisance organisms and organic loadings. It shall not be used in place of filtration or coagulation in the preparation of water for filtration. (____)

01. Design Considerations. The following shall be taken into account during design: (____)

a. The nature of the suspended matter to be removed. (____)

b. The corrosiveness of the water. (____)

c. The effect of chlorination, when required as pre-treatment. (____)

d. The duplication of units for continuous operation during equipment maintenance. (____)

e. Automated backflushing operation when used in conjunction with microfiltration treatment. (____)

02. Design Requirements. Design shall provide the following: (____)

a. A durable, corrosion-resistant screen. (____)

b. A by-pass arrangement. (____)

c. Protection against back-siphonage when potable water is used for washing. (____)

d. Proper disposal of water used to wash the microscreen. (____)

520. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT: CLARIFICATION PROCESSES.
Treatment facilities designed to include clarification for processing surface water shall meet the following requirements: (____)

01. Two Units Required. A minimum of two (2) units shall be provided for flocculation and sedimentation. (____)

02. Parallel or Serial Operation. The units shall be capable of being operated either in series or parallel where softening is performed. (____)

03. Independent Units. The units shall be constructed in such a way that each can be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time. (____)

04. **Manual Start-Up**. The units shall be started manually following shutdown.( )

05. **Pre-Treatment**. Waters exhibiting high turbidity may require pretreatment, usually sedimentation with or without the addition of coagulation chemicals. When presedimentation is provided, the following requirements must be met: ( )

a. Incoming water shall be dispersed across the full width of the line of travel as quickly as possible. Short circuiting must be prevented. ( )

b. Provisions for bypassing pre-sedimentation basins shall be included. ( )

06. **Rapid Mix**. Rapid mix shall mean the rapid dispersion of chemicals throughout the water to be treated, usually by violent agitation. The engineer shall submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. Basins or mixing chambers shall be equipped with devices capable of providing adequate mixing for all treatment flow rates. ( )

07. **Flocculation**. Flocculation shall mean the gathering together of fine particles in water by gentle mixing after the addition of coagulant chemicals to form larger particles. ( )

a. Basin inlet and outlet design shall minimize short-circuiting and destruction of floc. A drain and/or pumps shall be provided to handle dewatering and sludge removal. ( )

b. The flow-through velocity shall not be less than one-half (0.5) nor greater than one and one-half (1.5) feet per minute with a detention time for floc formation of at least thirty (30) minutes unless otherwise approved by the Department. ( )

c. Agitators shall be driven by variable speed drives. ( )

d. Flocculation and sedimentation basins shall be as close together as possible. The velocity of flocculated water through pipes or conduits to settling basins shall be not less than one-half (0.5) nor greater than one and one-half (1.5) feet per second. Allowances must be made to minimize turbulence at bends and changes in direction. ( )

07. **Small Systems May Use Baffling**. Baffling may be used to provide for flocculation in small plants upon approval by the Department. ( )

08. **Sedimentation Units**. The following criteria apply to conventional sedimentation units: ( )

a. A minimum of two (2) hours of settling time shall be provided following flocculation unless adequate settling in less time can be demonstrated. ( )

b. Inlets shall be designed to distribute the water equally and at uniform velocities. ( )

c. Outlet weirs or submerged orifices shall maintain velocities suitable for settling in the basin and minimize short-circuiting. Outlet weirs shall be designed so that the rate of flow

over the outlet weirs or through the submerged orifices shall not exceed twenty-thousand (20,000) gallons per day per foot of the outlet launder. The entrance velocity through the submerged orifices shall not exceed one-half (0.5) feet per second. ( )

d. The velocity through settling basins shall not exceed one-half (0.5) feet per minute. The basins must be designed to minimize short-circuiting. Fixed or adjustable baffles must be provided as necessary to achieve the maximum potential for clarification. ( )

e. When an overflow weir or pipe is provided the overflow shall discharge by gravity with a free fall at a location where the discharge will be noted. ( )

f. Adequate sludge collection equipment that ensures proper basin coverage shall be provided and basins must be provided with a means for dewatering. ( )

g. Flushing lines or hydrants shall be provided and must be equipped with backflow prevention devices acceptable to the Department. ( )

h. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. ( )

i. Sludge shall be disposed of in accordance with applicable regulations, as set forth in Section 540. ( )

09. **Solids Contact Clarifiers**. Solids contact clarifiers are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. A minimum of two (2) units are required for surface water treatment. ( )

a. Chemicals shall be applied at such points and by such means as to ensure satisfactory mixing of the chemicals with the water. ( )

b. Unless otherwise approved by the Department, a rapid mix device or chamber ahead of the solids contact clarifier is required to assure proper mixing of the chemicals applied. Mixing devices employed shall be constructed so as to provide good mixing of the raw water with previously formed sludge particles and prevent deposition of solids in the mixing zone. ( )

c. Flocculation equipment shall be adjustable as to speed and/or pitch and must provide for coagulation in a separate chamber or baffled zone within the unit. ( )

d. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. ( )

e. Blow-off outlets and drains must terminate and discharge at places acceptable to the Department in regard to control of potential cross connections. Cross connection control must

be included for the potable water lines used to backflush sludge lines. ( )

f. The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. The Department may request data to support decisions made with respect to detention times. The Department may alter detention time requirements. ( )

g. Controls for sludge withdrawl which minimize water losses shall be provided. ( )

h. Unless otherwise approved by the Department, weirs shall be adjustable and at least equivalent in length to the perimeter of the tank. Weir loading shall not exceed ten (10) gallons per minute per foot of weir length for units used as clarifiers or twenty (20) gallons per minute per foot of weir length for units used for softening. Where orifices are used, the loading rates per foot of launder rates shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank. ( )

i. Upflow rates shall not exceed one (1) gallon per minute per square foot of area at the sludge separation line for units used as clarifiers or one and three-quarters (1.75) gallons per minute per foot of area at the slurry separation line for units used as softeners. The Department may consider higher rates if supporting data is provided. ( )

10. **Settler Units**. Settler units consisting of variously shaped tubes or plates installed in multiple layers and at an angle to the flow may be used for sedimentation following flocculation. ( )

a. Inlets and outlets shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units shall be designed to minimize unequal distribution across the units. ( )

b. Drain piping from the settler units must be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant. ( )

c. Although most units will be located within a plant, outdoor installations must provide sufficient freeboard above the top of settlers to prevent freezing in the units. ( )

d. Water shall be applied to tube settlers at a maximum rate of two (2) gallons per minute per square foot of cross-sectional area for tube settlers, unless higher rates are justified through pilot plant or in-plant demonstration studies. ( )

e. Water shall be applied to plate settlers at a maximum plate loading rate of one-half (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area. ( )

f. Flushing lines shall be provided to facilitate maintenance and must be properly protected against backflow or back siphonage. ( )

11. **High Rate Clarification**. High rate clarification processes may be approved upon

demonstrating satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions. Reductions in detention times and/or increases in weir loading rates shall be justified. Examples of such processes include dissolved air flotation, ballasted flocculation, contact flocculation/clarification, and helical upflow. ( )

521. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT: FILTRATION USING RAPID RATE GRAVITY FILTERS.

01. Pretreatment. The use of rapid rate gravity filters shall require pretreatment in the form of coagulation, floculation, and sedimentation. ( )

02. Rate of Filtration. The filter rate must be proposed and justified by the design engineer to the satisfaction of the Department prior to the preparation of final plans and specifications. ( )

03. Number of Units. At least two (2) units shall be provided. Where only two (2) units are provided, each shall be capable of meeting the plant design capacity (normally the projected maximum daily demand) at the approved filtration rate. Where more than two (2) filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with one (1) filter removed from service. Where declining rate filtration is provided, the variable aspect of filtration rates, and the number of filters must be considered when determining the design capacity for the filters. ( )

04. Structure and Hydraulics. The filter structure shall be designed to provide for: ( )

a. Vertical walls within the filter. There shall be no protrusion of the filter walls into the filter media. ( )

b. Cover by superstructure with sufficient headroom to permit normal inspection and operation. ( )

c. Minimum depth of filter box of eight and one-half (8.5) feet. ( )

d. Minimum water depth over the surface of the filter media of three (3) feet. ( )

e. Trapped effluent to prevent backflow of air to the bottom of the filters. ( )

f. Prevention of floor drainage to the filter with a minimum four (4) inch curb around the filters. ( )

g. Prevention of flooding by providing overflow. ( )

h. Maximum velocity of treated water entering the filters of two (2) feet per second. ( )

i. Cleanouts and straight alignment for influent pipes or conduits where solids

loading is heavy, or following lime-soda softening. ( )

j. Washwater drain capacity to carry maximum flow. ( )

k. Walkways around filters to be not less than twenty-four (24) inches wide and equipped with safety handrails or walls. ( )

l. Construction so as to prevent cross connections and common walls between potable and non-potable water. ( )

05. **Washwater Troughs**. Washwater troughs shall be constructed to have: ( )

a. The bottom elevation above the maximum level of expanded media during washing. ( )

b. A two (2) inch freeboard at the maximum rate of wash. ( )

c. The top edge level and all at the same elevation. ( )

d. Spacing so that each trough serves the same number of square feet of filter area. ( )

e. Maximum horizontal travel of suspended particles to reach the trough not to exceed three (3) feet. ( )

06. **Filter Material**. The media shall be clean silica sand or other natural or synthetic media free from detrimental chemical or bacterial contaminants, approved by the Department, and having the following characteristics: ( )

a. A total depth of not less than twenty-four (24) inches and generally not more than thirty (30) inches. ( )

b. An effective size range of the smallest material no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )

c. A uniformity coefficient of the smallest material not greater than one and sixty-five hundredths (1.65). ( )

d. A minimum of twelve (12) inches of media with an effective size range no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter and a specific gravity greater than other filtering materials within the filter. ( )

e. Types of filter media are as follows: ( )

i. Clean, crushed anthracite or a combination of anthracite and other media may be considered on the basis of experimental data specific to the project. The anthracite shall have the following characteristics: ( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter with uniformity coefficient not greater than sixty-five hundredths (1.65) when used alone. ( )

(2) Effective size of eight tenths (0.8) of a millimeter to one and two-tenths (1.2) millimeters with a uniformity coefficient not greater than one and eighty-five hundredths (1.85) when used as a cap. ( )

(3) Effective size for anthracite used as a single media on potable ground water for iron and manganese removal only shall be a maximum of eight tenths (0.8) of a millimeter (effective sizes greater than this may be approved based upon onsite pilot plant studies or other demonstration acceptable to the Department). ( )

ii. Sand media shall have the following characteristics: ( )

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. ( )

(2) Uniformity coefficient of not greater than one and sixty-five hundredths (1.65). ( )

(3) Larger size sand media may be allowed by the Department where full-scale tests have demonstrated that treatment goals can be met under all conditions. ( )

iii. Granular activated carbon (GAC) as a single media may be considered for filtration only after pilot or full-scale testing and with prior approval of the Department. The design shall include the following: ( )

(1) The media must meet the basic specifications for filter media as given in Subsections 518.06.a. through d., except that larger size media may be allowed where full scale tests have demonstrated that treatment goals can be met under all conditions. ( )

(2) There must be provisions for a free chlorine residual and adequate contact time in the water following the filters and prior to distribution. ( )

(3) There must be a means for periodic treatment of filter material for control of bacterial and other growth. ( )

(4) Provisions must be made for frequent replacement or regeneration. ( )

iv. Other media will be considered based on experimental data and operating experience. ( )

v. A three (3) inch layer of torpedo sand shall be used as a supporting media for filter sand where supporting gravel is used, and shall have an effective size of eight-tenths (0.8) millimeters to two (2.0) millimeters, and a uniformity coefficient not greater than one and seven-tenths (1.7). ( )

vi. Gravel, when used as the supporting media, shall consist of cleaned and washed, hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the reviewing authority for slow sand filtration or when proprietary filter bottoms are specified. ( )

Size of Gravel	Depth
2 ½ to 1 ½ inches	5 to 8 inches
1 ½ to ¾ inches	3 to 5 inches
¾ to ½ inches	3 to 5 inches
½ to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

( )

07. Filter Bottoms and Strainer Systems. Departure from the standards set out in Subsection 521.07 may be acceptable for high rate filters and for proprietary bottoms. Porous plate bottoms shall not be used where iron or manganese may clog them or with waters softened by lime. The design of manifold-type collection systems shall: ( )

a. Minimize loss of head in the manifold and laterals. ( )

b. Ensure even distribution of wash water and even rate of filtration over the entire area of the filter. ( )

c. Provide the ratio of the area of the final openings of the strainer systems to the area of the filter at about three-thousandths (0.003), ( )

d. Provide the total cross-sectional area of the laterals at about twice the total area of the final openings. ( )

e. Provide the cross-sectional area of the manifold at one and one-half (1.5) to two (2) times the total area of the laterals. ( )

f. Lateral perforations without strainers shall be directed downward. ( )

08. Surface or Subsurface Wash. Surface or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal, and may be accomplished by a system of fixed nozzles or a revolving-type apparatus. All devices shall be designed with: ( )

a. Provision for water pressures of at least forty-five (45) pounds per square inch. ( )

b. A properly installed vacuum breaker or other approved device to prevent back siphonage if connected to the treated water system. ( )

c. Rate of flow of two (2.0) gallons per minute per square foot of filter area with fixed nozzles or one-half (0.5) gallon per minute per square foot with revolving arms. ( )

d. Air wash can be considered based on experimental data and operating experiences . ( )

09. **Air Scouring**. Air scouring can be considered in place of surface wash provided the following conditions are met: ( )

a. Air flow for air scouring the filter must be three (3) to five (5) standard cubic feet per minute square foot of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains. ( )

b. A method for avoiding excessive loss of the filter media during backwashing must be provided. ( )

c. Air scouring must be followed by a fluidization wash sufficient to restratify the media. ( )

d. Air must be free from contamination. ( )

e. Air scour distribution systems shall be placed below the media and supporting bed interface with the following exception: if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system. ( )

f. Piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity. ( )

g. Air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water. ( )

h. The backwash water delivery system must be capable of fifteen (15) gallons per minute per square foot of filter surface area (37 m/hr); however, when air scour is provided the backwash water rate must be variable and should not exceed eight (8) gallons per minute per square foot (20 m/hr) unless operating experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces. ( )

i. The filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain. ( )

10. **Filter Appurtenances**. The following shall be provided for every filter: ( )

a. Influent and effluent sampling taps. ( )

b. A gauge capable of indicating loss of head. ( )

c. A meter indicating rate-of flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled. A pump or a flow meter in each filter effluent line may be used as the limiting device for the rate of filtration only if approved by the Department on a site-specific basis. ( )

11. **Backwash**. Provisions shall be made for washing filters as follows: ( )

a. A minimum backwash rate such that a fifty (50) percent expansion of the filter bed is achieved. ( )

b. Filtered water provided at the required rate by wash water tanks, a wash water pump, from the high service main, or a combination of these. ( )

c. Wash water pumps in duplicate unless an alternate means of obtaining wash water is available. ( )

d. Not less than fifteen (15) minutes wash of one filter at the design rate of wash. ( )

e. A wash water regulator or valve on the main wash water line to obtain the desired rate of filter wash with the wash water valves on the individual filters open wide. ( )

f. A rate-of-flow indicator, preferably with a totalizer, on the main wash water line, located so that it can be easily read by the operator during the washing process. ( )

g. Design to prevent rapid changes in backwash water flow. Backwash shall be operator initiated. Automated systems shall be operator adjustable. ( )

12. **Roof Drainage**. Roof drains shall not discharge into the filters or basins and conduits preceding the filters. ( )

522. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT: FILTRATION USING DIATOMACEOUS EARTH.
The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination, and may be used for iron removal for ground waters providing the removal is effective and the water is of satisfactory sanitary quality before treatment. ( )

01. **Conditions of Use**. Diatomaceous earth filters are expressly excluded from consideration for the following conditions: ( )

a. Bacteria removal; ( )

b. Color removal; ( )

c. Turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; or ( )

d. Filtration of waters with high algae counts. ( )

02. **Treated Water Storage**. Treated water storage capacity in excess of normal requirements shall be provided to allow operation of the filters at a uniform rate during all conditions of system demand at or below the approved filtration rate, and guarantee continuity of service during adverse raw water conditions without by-passing the system. ( )

03. **Number of Units**. The requirements of Subsection 518.03 shall apply to diatomaceous earth filtration. ( )

05. **Precoat**. A uniform precoat shall be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste recirculation system. ( )

06. **Body Feed**. A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses. ( )

a. The rate of body feed is dependent on raw water quality and characteristics and must be determined in the pilot plant study. ( )

b. Continuous mixing of the body feed slurry is required. ( )

07. **Filtration Requirements**. ( )

a. Rate of filtration shall be controlled by a positive means. ( )

b. Head loss shall not exceed thirty (30) psi for pressure diatomaceous earth filters, or a vacuum of fifteen (15) inches of mercury for a vacuum system. ( )

c. A recirculation or holding pump shall be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of one-tenth (0.1) gallon per minute per square foot of filter area shall be provided. ( )

d. The septum or filter elements shall be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and shall be spaced such that no less than one (1) inch is provided between elements or between any element and a wall. ( )

e. The filter influent shall be designed to prevent scour of the diatomaceous earth from the filter element. ( )

08. **Backwash**. A satisfactory method to thoroughly remove and dispose of spent filter

cake shall be provided. ( )

09. **Appurtenances**. The following shall be provided for every filter: ( )

a. Sampling taps for raw and filtered water. ( )

b. Loss of head or differential pressure gauge. ( )

c. Rate-of-flow indicator. ( )

d. A throttling valve used to reduce rates below normal during adverse raw water conditions. ( )

e. Evaluation of the need for body feed, recirculation, and any other pumps. ( )

f. Provisions for filtering to waste with appropriate measures for backflow prevention. ( )

10. **Monitoring**. A continuous monitoring turbidimeter with recorder is required on each filter effluent for plants treating surface water. ( )

523. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT: SLOW SAND FILTRATION.

The use of these filters shall require prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific water supply. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, Manual on Slow Sand Filtration, and Slow Sand Filtration referenced in Subsection 002.02, may be used as guidance in design of slow sand filtration facilities. ( )

01. **Quality of Raw Water**. Slow rate gravity filtration shall be limited to waters having maximum turbidities of ten (10) nephelometric units and maximum color of fifteen (15) units; such turbidity must not be attributable to colloidal clay. Raw water quality data must include examinations for algae. ( )

02. **Number of Units**. At least two (2) units shall be provided. Where only two (2) units are provided, each shall be capable of meeting the plant design capacity (normally the projected maximum daily demand) at the approved filtration rate. Where more than two (2) filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service. ( )

03. **Structural Details and Hydraulics**. Slow rate gravity filters shall be so designed as to provide a cover, unless otherwise approved by the Department, headroom to permit normal movement by operating personnel for scraping and sand removal operations, adequate access hatches and access ports for handling of sand and for ventilation, filtration to waste, an overflow at the maximum filter water level, and protection from freezing. ( )

04. **Underdrains**. Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that

the maximum velocity of the water flow in the underdrain will not exceed three-fourths (0.75) feet per second. The maximum spacing of laterals shall not exceed three (3) feet if pipe laterals are used. ( )

05. **Filter Material**. The following requirements apply: ( )

a. Graded gravel layers beneath filter sand shall have a minimum depth of thirty (30) inches. ( )

b. The effective size shall be between fifteen hundredths (0.15) of a millimeter and thirty-five hundredths (0.35) of a millimeter. Larger sizes may be considered by the Department based on the results of pilot testing. ( )

c. The uniformity coefficient shall not exceed three point zero (3.0). ( )

d. The sand shall be cleaned and washed free from foreign matter. ( )

e. The sand shall be rebedded when scraping has reduced the bed depth to no less than twenty-four (24) inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebedding shall utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand. The maximum filtration rate shall not exceed zero point one (0.1) gallon per minute per square foot. ( )

06. **Depth of Water Over Filter Beds**. The design shall provide a depth of at least three (3) to six (6) feet of water over the sand. Influent water shall not scour the sand surface. ( )

07. **Control Appurtenances**. Each filter shall be equipped with a loss of head gauge, an orifice, Venturi meter, or other suitable means of discharge measurement installed on each filter to control the rate of filtration, and an effluent pipe designed to maintain the water level above the top of the filter sand. ( )

08. **Ripening**. Slow sand filters shall be operated to waste after scraping or rebedding during a ripening period until the filter effluent turbidity falls to consistently below the regulated drinking water standard established for the system. ( )

09. **Supernatant Drain Required**. Filter beds shall be equipped with a supernatant drain to allow for quick removal of water standing over sand that has become impermeable because it requires scraping or rebedding. ( )

524. FACILITY AND DESIGN STANDARDS - SURFACE WATER TREATMENT: DIRECT FILTRATION.

Direct filtration, as used herein, refers to the filtration of a surface water following chemical coagulation and possibly flocculation but without prior settling. The nature of the treatment process will depend upon the raw water quality. A full scale direct filtration plant shall not be constructed without prior pilot studies which are acceptable to the reviewing authority. In-plant demonstration studies are required where conventional treatment plants are converted to direct

filtration. Where direct filtration is proposed, an engineering report shall be submitted prior to conducting pilot plant or in-plant demonstration studies. ( )

01. Filtration Requirements. ( )

a. Filters shall be rapid rate gravity filters with dual or mixed media. The final filter design shall be based on the pilot plant or in-plant demonstration studies, and all portions of Section 518 apply. Pressure filters or single media sand filters shall not be used. ( )

b. A continuous recording turbidimeter shall be installed on each filter effluent line and on the composite filter effluent line. ( )

c. Additional continuous monitoring equipment such as particle counting or streaming current metering to assist in control of coagulant dose may be required by the reviewing authority. ( )

02. Siting Requirements. The plant design and land ownership surrounding the plant shall allow for modifications of the plant. ( )

525. -- 529. (RESERVED).

530. FACILITY AND DESIGN STANDARDS - DISINFECTION OF DRINKING WATER.

Disinfection may be accomplished with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, or an equivalent means of measuring effectiveness exists. The required amount of primary disinfection needed shall be specified by the Department. Consideration must be given to the formation of disinfection by-products (DBP) when selecting the disinfectant. See Section 531, Facility Design Standards - Design Standards for Chemical Application. ( )

01. Chlorination. ( )

a. Chlorination equipment shall meet the following requirements: ( )

i. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type must be provided. ( )

ii. Standby or backup equipment of sufficient capacity shall be available to replace the largest unit. Spare parts shall be made available to replace parts subject to wear and breakage. ( )

iii. Automatic proportioning chlorinators will be required where the rate of flow or chlorine demand is not reasonably constant. ( )

iv. Each eductor (submerged jet pump) must be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector

waterflow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. ( )

v. The chlorine solution injector/diffuser must be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. ( )

b. Contact time and point of application requirements are as follows: ( )

i. Contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation must be demonstrated through tracer studies or other evaluations acceptable to the Department. Appendix E of EPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, referenced in Section 002.02, contains tables that may be used as guidance to develop contact time requirements for specific target organisms and disinfectants. Additional baffling can be added to new or existing basins to minimize short circuiting and increase contact time. ( )

ii. At plants treating surface water, except slow sand filtration systems, provisions shall be made for applying the disinfectant to the raw water, settled water, filtered water, and water entering the distribution system. Disinfectant application equipment shall be controlled by a flow sensing device so that injection of the disinfectant will not continue when the flow of water stops. ( )

iii. At a minimum, at plants treating ground water, provisions shall be made for applying the disinfectant to the detention basin inlet and water entering the distribution system. ( )

c. Chlorine residual test equipment recognized in the "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, shall be provided for use by the operator. All surface water treatment plants that serve a population greater that three thousand three hundred (3,300) must have equipment to measure chlorine residuals continuously entering the distribution system. ( )

d. Chlorinator piping requirements: ( )

i. Cross connection protection: The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by sources of questionable quality. At all facilities treating surface water, pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut-off valve will be allowed. ( )

ii. The pipes carrying elemental liquid or dry gaseous chlorine under pressure must be Schedule 80 seamless steel tubing or other materials recommended by the Chlorine Institute (never use PVC). Rubber, PVC, polyethylene, or other materials recommended by the Chlorine Institute must be used for chlorine solution piping and fittings. Nylon products are not acceptable for any part of the chlorine solution piping system. ( )

02. Disinfection with Ozone. Systems that are required to maintain a disinfectant

residual in the distribution system shall supplement ozone disinfection with a chemical disinfectant. ( )

a. The following are requirements for feed gas preparation: ( )

i. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen conforming with AWWA Standard B-304; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. In all cases, the design engineer must ensure that the maximum dew point of -76°F (-60°C) will not be exceeded at any time. ( )

ii. Air compression: ( )

(1) Air compressors shall be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems. ( )

(2) The air compressors shall have the capacity to simultaneously provide for maximum ozone demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity. ( )

(3) Air feed for the compressor shall be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply. ( )

(4) A compressed air after-cooler and/or entrainment separator with automatic drain shall be provided prior to the dryers to reduce the water vapor. ( )

(5) A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down. ( )

iii. Air drying: ( )

(1) Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) must be provided at the end of the drying cycle. ( )

(2) Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-reactivated desiccant dryers shall be used. ( )

(3) A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) shall be provided for low pressure air preparation systems. The dryer can be of the compressed refrigerant type or chilled water type. ( )

(4) For heat-reactivated desiccant dryers, the unit shall contain two (2) desiccant filled towers complete with pressure relief valves, two (2) four-way valves and a heater. In addition, external type dryers shall have a cooler unit and blowers. The size of the unit shall be such that the

specified dew point will be achieved during a minimum adsorption cycle time of sixteen (16) hours while operating at the maximum expected moisture loading conditions. ( )

(5) Multiple air dryers shall be provided so that the ozone generation is not interrupted in the event of dryer breakdown. ( )

(6) Each dryer shall be capable of venting "dry" gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are "on-line". ( )

iv. Air filters: ( )

(1) Air filters shall be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators. ( )

(2) The filter before the desiccant dryers shall be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer shall be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer. ( )

v. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system. ( )

b. The following requirements apply to the ozone generator: ( )

i. Capacity. ( )

(1) The production rating of the ozone generators shall be stated in pounds per day and kWhr per pound at a maximum cooling water temperature and maximum ozone concentration. ( )

(2) The design shall ensure that the minimum concentration of ozone in the generator exit gas will not be less than one (1) percent (by weight). ( )

(3) Generators shall be sized to have sufficient reserve capacity so that the system does not operate at peak capacity for extended periods of time resulting in premature breakdown of the dielectrics. ( )

(4) The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then pertinent data shall be used to determine production changes due to the temperature change of the supplied coolant. The design shall ensure that the generators can produce the required ozone at maximum coolant temperature. ( )

(5) Appropriate ozone generator backup equipment must be provided. ( )

ii. Electrical. The generators can be low, medium or high frequency type. Specifications shall require that the transformers, electronic circuitry and other electrical

hardware be proven, high quality components designed for ozone service. ( )

iii. Cooling. Adequate cooling shall be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross connection control shall be provided to prevent contamination of the potable water supply. ( )

iv. Materials. To prevent corrosion, the ozone generator shell and tubes shall be constructed of Type 316L stainless steel. ( )

c. The following requirements apply to ozone contactors: ( )

i. Bubble diffusers. ( )

(1) Where disinfection is the primary application, a minimum of two (2) contact chambers each equipped with baffles to prevent short circuiting and induce countercurrent flow shall be provided. Ozone shall be applied using porous-tube or dome diffusers. ( )

(2) The minimum contact time shall be ten (10) minutes. A shorter contact time (CT) may be approved by the Department if justified by appropriate design and "CT" considerations. ( )

(3) Where taste and odor control is of concern, multiple application points and contactors shall be considered. ( )

(4) Contactors shall be separate closed vessels that have no common walls with adjacent rooms. The contactor must be kept under negative pressure and sufficient ozone monitors shall be provided to protect worker safety. ( )

(5) Contact vessels can be made of reinforced concrete, stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level. If contact vessels are made of reinforced concrete, all reinforcement bars shall be covered with a minimum of one and one-half (1.5) inches of concrete. ( )

(6) Where necessary, a system shall be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the reviewing authority. If foaming is expected to be excessive, then a potable water spray system shall be placed in the contactor head space. ( )

(7) All openings into the contactor for pipe connections, hatchways, etc. shall be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon. ( )

(8) Multiple sampling ports shall be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations. ( )

(9) A pressure/vacuum relief valve shall be provided in the contactor and piped to a location where there will be no damage to the destruction unit. ( )

(10) The depth of water in bubble diffuser contactors shall be a minimum of eighteen (18) feet. The contactor shall also have a minimum of three (3) feet of freeboard to allow for foaming. ( )

(11) All contactors shall have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment shall also be equipped with an access hatchway. ( )

(12) Aeration diffusers shall be fully serviceable by either cleaning or replacement. ( )

ii. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be approved by the Department provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified. ( )

d. The following requirements apply to ozone destruction units: ( )

i. A system for treating the final off-gas from each contactor must be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units. ( )

ii. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume). ( )

iii. At least two (2) units shall be provided which are each capable of handling the entire gas flow. ( )

iv. Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruct unit. ( )

v. Catalysts must be protected from froth, moisture and other impurities which may harm the catalyst. ( )

vi. The catalyst and heating elements shall be located where they can easily be reached for maintenance. ( )

e. Piping materials: Only low carbon 304L and 316L stainless steels shall be used for ozone service with 316L preferred. ( )

f. The following requirements apply to joints and connections: ( )

i. Connections on piping used for ozone service are to be welded where possible. ( )

ii. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon. Screwed fittings shall not be used because of their tendency to leak. ( )

iii. A positive closing plug or butterfly valve plus a leak-proof check valve shall be

provided in the piping between the generator and the contactor to prevent moisture reaching the generator. ( )

g. The following requirements apply to instrumentation: ( )

i. Pressure gauges shall be provided at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors, and at the inlet to the ozone destruction unit. ( )

ii. Each generator shall have a trip which shuts down the generator when the wattage exceeds a certain preset level. ( )

iii. Dew point monitors shall be provided for measuring the moisture of the feed gas from the desiccant dryers. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors shall be used. ( )

iv. Air flow meters shall be provided for measuring air flow from the desiccant dryers to each of the other ozone generators, air flow to each contactor, and purge air flow to the desiccant dryers. ( )

v. Temperature gauges shall be provided for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas and, if necessary, for the inlet and outlet of the ozone power supply cooling water. ( )

vi. Water flow meters shall be installed to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply. ( )

vii. Ozone monitors shall be installed to measure zone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors shall also be provided for monitoring ozone residuals in the water. The number and location of ozone residual monitors shall be such that the amount of time that the water is in contact with the ozone residual can be determined. ( )

viii. A minimum of one ambient ozone monitor shall be installed in the vicinity of the contactor and a minimum of one shall be installed in the vicinity of the generator. Ozone monitors shall also be installed in any areas where ozone gas may accumulate. ( )

h. Safety requirements are as follows: ( )

i. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed one-tenth part per million (0.1 ppm) by volume. ( )

ii. Noise levels resulting from the operating equipment of the ozonation system shall be controlled to within acceptable limits by special room construction and equipment isolation. ( )

iii. Emergency exhaust fans must be provided in the rooms containing the ozone

generators to remove ozone gas if leakage occurs. ( )

iv. A sign shall be posted indicating "No smoking, oxygen in use" at all entrances to the treatment plant. In addition, no flammable or combustible materials shall be stored within the oxygen generator areas. ( )

03. Disinfection with Chlorine Dioxide. Chlorine dioxide may be considered as a primary and residual disinfectant, a pre-oxidant to control tastes and odors, to oxidize iron and manganese, and to control hydrogen sulfide and phenolic compounds. When choosing chlorine dioxide, consideration must be given to formation of the regulated by-products, chlorite and chlorate. ( )

a. Chlorine dioxide generation equipment shall be factory assembled pre-engineered units with a minimum efficiency of ninety-five (95) percent. The excess free chlorine shall not exceed three (3) percent of the theoretical stoichiometric concentration required. ( )

b. Other design requirements include: ( )

i. The design shall comply with all applicable portions of Subsections 530.01.a. through 530.01.d. ( )

ii. The maximum residual disinfectant level allowed shall be zero point eight (0.8) milligrams per liter (mg/l), even for short term exposures. ( )

iii. Notification of a change in disinfection practices and the schedule for the changes shall be made known to the public; particularly to hospitals, kidney dialysis facilities and fish breeders, as chlorine dioxide and its by-products may have effects similar to chloramines. ( )

04. Other Disinfecting Agents. Proposals for use of disinfecting agents other than those listed shall be submitted to the Department for approval prior to preparation of final plans and specifications. ( )

531. FACILITY DESIGN STANDARDS - DESIGN STANDARDS FOR CHEMICAL APPLICATION.

01. General Equipment Design. General equipment design shall be such that: ( )

a. Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. ( )

b. Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. ( )

c. Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. ( )

d. Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines shall be clearly labeled

to identify the chemical they contain. ( )

e. All chemicals are conducted from the feeder to the point of application in separate conduits. ( )

f. Chemical feeders are as near as practical to the feed point. ( )

g. Chemical feeders and pumps shall operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted when the pump shall operate at no lower than ten percent (10%) of the rated maximum. ( )

02. Facility Design. ( )

a. Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders shall be provided and a separate feeder shall be used for each chemical applied. ( )

b. Chemical application control systems shall meet the following requirements: ( )

i. Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. ( )

ii. Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will not continue when the flow of water stops. ( )

iii. Chemical feed rates shall be proportional to flow. ( )

iv. A means to measure water flow must be provided in order to determine chemical feed rates. ( )

v. Provisions shall be made for measuring the quantities of chemicals used. ( )

vi. Weighing scales shall be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. ( )

vii. Shall be capable of providing reasonable precision in relation to average daily dose. ( )

viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. ( )

c. Dry chemical feeders shall measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. ( )

d. Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. ( )

e. Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. ( )

f. Cross connection control must be provided to assure that the following requirements are satisfied. ( )

i. The service water lines discharging to solution tanks shall be properly protected from backflow as required in Subsection 900.02 (Table 2). ( )

ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle. ( )

g. Chemical feed equipment shall be readily accessible for servicing, repair, and observation of operation. ( )

h. In-plant water supply for chemical mixing shall be: ( )

i. Ample in quantity and adequate in pressure. ( )

ii. Provided with means for measurement when preparing specific solution concentrations by dilution. ( )

iii. Properly treated for hardness, when necessary. ( )

iv. Properly protected against backflow. ( )

v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. ( )

i. Chemical storage facilities shall satisfy the following requirements: ( )

i. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. ( )

ii. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. ( )

iii. Liquid chemical storage tanks must have a liquid level indicator and have an overflow and a receiving basin capable of receiving accidental spills or overflows without uncontrolled discharge; a common receiving basin may be provided for each group of compatible

chemicals, that provides sufficient containment volume to prevent accidental discharge in the event of failure of the largest tank. ( )

j. Solution tanks shall comply with the following requirements: ( )

i. A means which is consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension. ( )

ii. Means shall be provided to measure the liquid level in the tank. ( )

iii. Chemical solutions shall be kept covered. Large tanks with access openings shall have such openings curbed and fitted with overhanging covers. ( )

iv. Subsurface locations for solution tanks shall be free from sources of possible contamination, and assure positive drainage for ground waters, accumulated water, chemical spills and overflows. ( )

v. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with day tanks. ( )

vi. Each tank shall be provided with a valved drain, protected against backflow in accordance with Subsection 900.02 (Table 2). ( )

vii. Solution tanks shall be located and protective curbings provided so that chemicals from equipment failure, spillage or accidental drainage shall not enter the water in conduits, treatment or storage basins. ( )

k. Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions. ( )

l. Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes. ( )

03. Chemicals. Chemical shipping containers shall be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. ( )

04. Safety Requirements for Chemical Facilities. ( )

a. The following requirements apply to chlorine gas feed and storage rooms: ( )

i. Each storage room shall be enclosed and separated from other operating areas. They shall be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed, and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior. ( )

ii. Each room shall be provided with a shatter resistant inspection window installed in

an interior wall. ( )

iii. Each room shall have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. ( )

iv. The ventilating fan shall take suction near the floor as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets to any rooms or structures. Air inlets shall be through louvers near the ceiling. ( )

v. Louvers for chlorine room air intake and exhaust shall facilitate airtight closure. ( )

vi. Separate switches for the fan and lights shall be located outside of the chlorine room and at the inspection window. Outside switches shall be protected from vandalism. A signal light indicating fan operation shall be provided at each entrance when the fan can be controlled from more than one (1) point. ( )

vii. Vents from feeders and storage shall discharge to the outside atmosphere, above grade. ( )

viii. Where provided, floor drains shall discharge to the outside of the building and shall not be connected to other internal or external drainage systems. ( )

ix. Chlorinator rooms shall be heated to sixty degrees farenheit (60°F) and be protected from excessive heat. Cylinders and gas lines shall be protected from temperatures above that of the feed equipment. ( )

x. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room. ( )

xi. Critical isolation valves shall be conspicuously marked and access kept unobstructed. ( )

xii. All chlorine rooms, buildings, and areas shall be posted with a prominent danger sign warning of the presence of chlorine. ( )

xiii. Full and empty cylinders of chlorine gas shall be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They shall be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they shall be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards. ( )

b. Where acids and caustics are used, they shall be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics shall not be handled in open vessels, but shall be pumped in undiluted form from original containers through suitable hose to the point of

treatment or to a covered day tank. ( )

c. Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the Department prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. ( )

i. Chlorite (sodium chlorite) shall be stored by itself in a separate room. It must be stored away from organic materials. The storage structure shall be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. ( )

ii. Care shall be taken to prevent spillage. An emergency plan of operation shall be available for the clean up of any spillage. Storage drums shall be thoroughly flushed prior to recycling or disposal. ( )

d. Where ammonium hydroxide is used, an exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point. The feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. ( )

e. Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) shall be enclosed and separated from other work areas and constructed of corrosion resistant materials. ( )

i. Pressurized ammonia feed lines shall be restricted to the ammonia room. ( )

ii. An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, shall be provided in the ammonia storage room. ( )

iii. Leak detection systems shall be fitted in all areas through which ammonia is piped. ( )

iv. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. ( )

v. Consideration shall be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. ( )

05. **Operator Safety**. The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. The following requirements are in addition to the requirements of Subsection 501.12. ( )

a. Respiratory protection equipment, meeting the requirements of the National

Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. ( )

b. Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. ( )

c. Protective equipment. ( )

i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. ( )

ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. ( )

iii. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis. ( )

iv. Other protective equipment shall be provided as necessary. ( )

06. Design Requirements for Specific Applications. ( )

a. Sodium chlorite for chlorine dioxide generation. Positive displacement feeders shall be provided. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms shall be provided. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line. ( )

b. Sodium hypochlorite facilities shall meet the following requirements: ( )

i. Sodium hypochlorite shall be stored in the original shipping containers or in sodium hypochlorite compatible containers. Storage containers or tanks shall be sited out of the sunlight in a cool and ventilated area. ( )

ii. Stored hypochlorite shall be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water shall be used. ( )

iii. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent shall be stored on-site. ( )

iv. Sodium hypochlorite feeders shall be positive displacement pumps with compatible materials for wetted surfaces. ( )

v. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be fitted. ( )

vi. Injectors shall be made removable for regular cleaning where hard water is to be treated. ( )

c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces shall be made of corrosion resistant non-metallic materials. Provision shall be made for removal of the agitator after dissolving the solid. The tank shall be fitted with a lid and vented outdoors. Injection of the solution should take place in the center of treated water flow at a location where there is high velocity movement. ( )

d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall be equipped as required for chlorinator rooms with the following changes: ( )

i. A corrosion resistant, closed, unpressurized tank shall be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions shall be made to prevent accidental addition of other chemicals to the storage tank. ( )

ii. The storage tank shall be fitted either with cooling/refrigeration and/or with provision without opening the system to dilute and mix the contents with water to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. ( )

iii. The aqua ammonia shall be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. ( )

iv. The point of delivery to the main water stream shall be placed in a region of turbulent water flow. ( )

v. Provisions shall be made for easy access for removal of calcium scale deposits from the injector. ( )

532. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR SOFTENING.

The softening process selected must be based upon the mineral qualities of the raw water and the desired finished water quality in conjunction with requirements for disposal of sludge or brine waste, cost of plant, cost of chemicals and plant location. Applicability of the process chosen shall be demonstrated. ( )

01. Lime or Lime-Soda Process. Rapid mix, flocculation, and sedimentation processes shall meet the requirements of Section 520. In addition the following requirements must be met: ( )

a. When split treatment is used, an accurate means of measuring and splitting the flow must be provided. ( )

b. Rapid mix basins must provide not more than thirty (30) seconds detention time with adequate velocity gradients to keep the lime particles dispersed. ( )

c. Equipment for stabilization of water softened by the lime or lime-soda process is required, see Section 537. ( )

d. Mechanical sludge removal equipment shall be provided in the sedimentation basin. ( )

e. Provisions must be included for proper disposal of softening sludges; see Section 540. ( )

f. The plant processes must be manually started following shut-down. ( )

02. Cation Exchange Process. ( )

a. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter (1 mg/l) or more. ( )

b. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened shall be used unless manual regeneration is justified and is approved by the Department. A manual override shall be provided on all automatic controls. ( )

c. Rate-of-flow controllers or the equivalent shall be used to control the hydraulic loading of cation exchange units. ( )

d. The bottoms, strainer systems and support for the exchange resin shall conform to the criteria provided for rapid rate gravity filters in Section 521. ( )

e. Cross Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage. ( )

f. A bypass must be provided around softening units to produce a blended water of desirable hardness. Totalizing meters must be installed on the bypass line and on each softener unit. The bypass line must have a shutoff valve. ( )

g. When the applied water contains a chlorine residual, the cation exchange resin shall be a type that is not damaged by residual chlorine. ( )

h. Smooth-nose sampling taps must be provided for the collection of representative

samples. The taps shall be located to provide for sampling of the softener influent, effluent, blended water, and on the brine tank discharge piping. The sampling taps for the blended water shall be at least twenty (20) feet downstream from the point of blending. Petcocks are not acceptable as sampling taps. ( )

i. Brine and salt storage tanks shall meet the following requirements: ( )

i. Salt dissolving or brine tanks and wet salt storage tanks must be covered and must be corrosion-resistant. ( )

ii. The make-up water inlet must be protected from back-siphonage. ( )

iii. Wet salt storage basins must be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings must be provided with raised curbs and watertight covers having overlapping edges similar to those required for finished water reservoirs. ( )

iv. Overflows, where provided, must be protected with corrosion resistant screens and must terminate with either a turned downed bend having a proper free fall discharge or a self-closing flap valve. ( )

v. The salt shall be supported on graduated layers of gravel placed over a brine collection system. ( )

vi. Alternative designs which are conducive to frequent cleaning of the wet salt storage tank may be considered. ( )

vii. An eductor may be used to transfer brine from the brine tank to the softeners. If a pump is used, a brine measuring tank or means of metering shall be provided to obtain the proper dilution. ( )

j. Suitable disposal must be provided for brine waste; see Section 540. Where the volume of spent brine must be reduced, consideration may be given to using a part of the spent liquid concentrate for a subsequent regeneration. ( )

k. Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable piping materials. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine. ( )

l. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment. ( )

533. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR TASTE AND ODOR CONTROL.

Provision shall be made for the control of taste and odor. Chemicals shall be added sufficiently ahead of other treatment processes to assure adequate contact time for an effective and economical use of the chemicals. Where severe taste and odor problems are encountered, in-plant and/or pilot plant studies may be required. ( )

01. Chlorination. When using chlorination as a method of taste and odor control adequate contact time must be provided to complete the chemical reactions involved. ( )

02. Chlorine Dioxide. Provisions shall be made for proper storing and handling of the sodium chlorite, so as to eliminate any danger of explosion. ( )

03. Powdered Activated Carbon. ( )

a. The carbon can be added as a pre-mixed slurry or by means of a dry-feed machine as long as the carbon is properly wetted. ( )

b. Continuous agitation or resuspension equipment is necessary to keep the carbon from depositing in the slurry storage tank. ( )

c. Provision shall be made for adequate dust control. ( )

d. Powdered activated carbon shall be handled as a potentially combustible material. ( )

04. Granular Activated Carbon. Replacement of anthracite with GAC may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms in surface water applications. Demonstration studies are required by the Department. ( )

05. Copper Sulfate and Other Copper Compounds. Continuous or periodic treatment of surface water with copper compounds to kill algae or other growths shall be controlled to prevent copper in excess of one point zero (1.0) milligrams per liter as copper in the plant effluent or distribution system. Care shall be taken to assure an even distribution of the chemical within the treatment area. ( )

06. Potassium Permanganate. Application of potassium permanganate may be considered, providing the treatment shall be designed so that the products of the reaction are not visible in the finished water. ( )

07. Ozone. Ozonation may be used as a means of taste and odor control. Adequate contact time must be provided to complete the chemical reactions involved. ( )

08. Other Methods. Other methods of taste and odor control shall be made only after pilot plant tests and approval of the Department. ( )

534. FACILITY AND DESIGN STANDARDS - AERATION PROCESSES.
Public water systems that install aeration treatment are subject to the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." The system owner or the design engineer shall contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found at http://www.deq.idaho.gov/air/prog_issues/toxics/overview.cfm#tap. ( )

01. **Natural Draft Aeration**. Design shall provide: ( )

a. Perforations in the distribution pan three sixteenths to one-half (3/16 – ½) inches in diameter, spaced one to three (1–3) inches on centers to maintain a six (6) inch water depth. ( )

b. For distribution of water uniformly over the top tray. ( )

c. Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. ( )

d. Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )

e. Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. ( )

f. Construction of durable material resistant to aggressiveness of the water and dissolved gases. ( )

g. Protection from insects by twenty-four (24) mesh screen. ( )

02. **Forced or Induced Draft Aeration**. Devices shall be designed to: ( )

a. Include a blower with a weatherproof motor in a tight housing and screened enclosure. ( )

b. Ensure adequate counter current of air through the enclosed aerator column.( )

c. Exhaust air directly to the outside atmosphere. ( )

d. Include a down-turned and twenty-four (24) mesh screened air outlet and inlet . ( )

e. Be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible. ( )

f. Be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room. ( )

g. Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. ( )

h. Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air . ( )

i. Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. ( )

j. Provide distribution of water uniformly over the top tray. ( )

k. Be of durable material resistant to the aggressiveness of the water and dissolved gases. ( )

03. **Spray Aeration**. Design shall provide: ( )

a. A hydraulic head of between five (5) and twenty-five (25) feet. ( )

b. Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. ( )

c. Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. ( )

d. An enclosed basin to contain the spray. Any openings for ventilation must be protected with a twenty-four (24) mesh screen. ( )

04. **Pressure Aeration**. Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to give thorough mixing of compressed air with water being treated and provide screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. ( )

05. **Packed Tower Aeration**. Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design shall be based on the results of pilot studies and be approved by the Department. ( )

a. Process design criteria. ( )

i. Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) shall be provided to the Department for review. The pilot study shall evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration shall be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without pilot testing. ( )

ii. The tower shall be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. ( )

iii. The type and size of the packing used in the full scale unit shall be the same as that used in the pilot study. ( )

iv. The maximum air to water ratio for which credit will be given is 80:1. ( )

v. The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability shall be provided prior to and after packed tower aeration. ( )

vi. The effects of temperature shall be considered. ( )

vii. Redundant packed tower aeration capacity at the design flowrate shall be provided. ( )

b. The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic. Uncoated carbon steel is not allowed. Towers constructed of light-weight materials shall be provided with adequate support to prevent damage from wind. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water. ( )

c. Water flow system. ( )

i. Water shall be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. ( )

ii. A mist eliminator shall be provided above the water distributor system. ( )

iii. A side wiper redistribution ring shall be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. ( )

iv. Sample taps shall be provided in the influent and effluent piping. ( )

v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer. ( )

vi. The design shall prevent freezing of the influent riser and effluent piping when the unit is not operating. ( )

vii. The water flow to each tower shall be metered. ( )

viii. An overflow line shall be provided which discharges twelve (12) to fourteen (14) inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area. ( )

ix. Means shall be provided to prevent flooding of the air blower. ( )

d. Air flow system. ( )

i. The air inlet to the blower and the tower discharge vent shall be down-turned and

protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. ( )

ii. The air inlet shall be in a protected location. ( )

iii. An air flow meter shall be provided on the influent air line or an alternative method to determine the air flow shall be provided. ( )

iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. ( )

v. A backup motor for the air blower must be readily available. ( )

e. Other features that shall be provided: ( )

i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. ( )

ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. ( )

iii. Tower effluent collection and pumping wells constructed to clearwell standards. ( )

iv. Provisions for extending the tower height without major reconstruction. ( )

v. No bypass shall be provided unless specifically approved by the Department. ( )

vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. ( )

vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. ( )

viii. Operation of the blower and disinfectant feeder equipment during power failures. ( )

ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. ( )

x. Fencing and locking gate to prevent vandalism. ( )

xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and de-mister. ( )

xii. Electrical interconnection between blower, disinfectant feeder and supply pump. ( )

06. Other Methods of Aeration. Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes are subject to the approval of the Department. ( )

07. Protection of Aerators. All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. ( )

08. Disinfection. Ground water supplies exposed to the atmosphere by aeration must receive disinfection as the minimum additional treatment. ( )

535. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR IRON AND MANGANESE CONTROL SYSTEMS.

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one (1) or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the Department. The Department may require a pilot plant study in order to gather all information pertinent to the design. ( )

01. Removal by Oxidation, Detention and Filtration. ( )

a. Oxidation may be by aeration or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide. ( )

b. Detention time: ( )

i. A minimum detention time of thirty (30) minutes shall be provided following aeration to ensure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates no need for detention. The detention basin may be designed as a holding tank without provisions for sludge collection but with sufficient baffling to prevent short circuiting. ( )

ii. Sedimentation basins shall be provided when treating water with high iron and/or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made. ( )

c. Filtration. Rapid rate pressure filters are normally used for iron and manganese removal. Pressure filters shall not be used in the filtration of surface or other polluted waters or following lime-soda softening. ( )

i. The rate of filtration shall not exceed three (3) gallons per minute per square foot

of filter area except where in-plant testing as approved by the Department has demonstrated satisfactory results at higher rates. ( )

ii. The filters shall be designed to provide for: ( )

(1) Loss of head gauges on the inlet and outlet pipes of each battery of filters. ( )

(2) An easily readable meter or flow indicator on each battery of filters. ( )

(3) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes. ( )

(4) Minimum side wall shell height of five (5) feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth. ( )

(5) The top of the wash water collectors to be at least eighteen (18) inches above the surface of the media, ( )

(6) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than fifteen (15) gallons per minute per square foot of filter area. ( )

(7) Backwash flow indicators and controls that are easily readable while operating the control valves. ( )

(8) An air release valve on the highest point of each filter. ( )

(9) An accessible manhole to facilitate inspection and repairs for filters thirty-six (36) inches or more in diameter. Sufficient handholds shall be provided for filters less than thirty-six (36) inches in diameter. ( )

(10) A means to observe the wastewater during backwashing and construction to prevent cross connection. ( )

02. Removal by Manganese Coated Media Filtration. This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter. ( )

a. Other oxidizing agents or processes such as chlorination or aeration may be used prior to the permanganate feed to reduce the cost of the chemical. ( )

b. An anthracite media cap of at least six (6) inches or more as required by the Department shall be provided over manganese coated media. ( )

c. Normal filtration rate shall be three (3) gallons per minute per square foot. ( )

d. Normal wash rate shall be eight (8) to ten (10) gallons per minute per square foot with manganese greensand and fifteen (15) to twenty (20) gallons per minute with manganese

coated media. ( )

e. Sample taps shall be provided prior to application of permanganate, immediately ahead of filtration, at points between the anthracite media, and at the filter effluent. ( )

03. **Removal by Ion Exchange**. This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants. ( )

04. **Biological Removal**. Biofiltration to remove manganese and/or iron requires on-site piloting testing to establish effectiveness. The final filter design shall be based on the on-site pilot plant studies. ( )

05. **Sequestration by Polyphosphates**. This process shall not be used when iron, manganese or a combination thereof exceeds one point zero (1.0) mg/l. The total phosphate applied shall not exceed ten (10) mg/l as PO_4. Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system. Possible adverse affects on corrosion must be addressed when phosphate addition is proposed for iron sequestering. ( )

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less may also be exempted from this requirement by the Department. ( )

b. Polyphosphates shall not be applied ahead of iron and manganese removal treatment. The point of application shall be prior to any aeration, oxidation or disinfection if no iron or manganese removal treatment is provided. ( )

06. **Sequestration by Sodium Silicates**. Sodium silicate sequestration of iron and manganese is allowed only for ground water supplies prior to air contact. On-site pilot tests are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition. ( )

a. Sodium silicate addition is applicable to waters containing up to two (2) mg/l of iron, manganese or combination thereof. ( )

b. Chlorine residuals shall be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron. ( )

c. The amount of silicate added shall be limited to twenty (20) mg/l as SiO_2, but the amount of added and naturally occurring silicate shall not exceed sixty (60) mg/l as SiO_2. ( )

d. Sodium silicate shall not be applied ahead of iron or manganese removal treatment. ( )

07. **Sampling Taps**. Smooth-nosed sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, each treatment unit influent and each

treatment unit effluent. ( )

536. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR FLUORIDATION.

01. Chemical Feed Equipment and Methods. In addition to the requirements in Section 531, fluoride feed equipment shall meet the following requirements: ( )

a. Scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five (5) percent of the average daily change in reading shall be provided for chemical feeds. ( )

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five (5) percent of the intended dose. ( )

c. Unsealed storage units for fluorosilicic acid shall be vented to the atmosphere at a point outside any building. ( )

d. Fluoride compound shall not be added before lime-soda softening or ion exchange softening. ( )

e. The point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe. ( )

f. A fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than twenty (20) strokes per minute, and at a feed rate not less than twenty (20) percent of the rated capacity of the feed pump. ( )

g. A spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines. ( )

h. Except for constant flow systems, a device to measure the flow of water to be treated is required. ( )

i. The dilution water pipe shall terminate at least two (2) pipe diameters above the solution tank. ( )

j. Water used for sodium fluoride dissolution shall be softened if hardness exceeds seventy-five (75) mg/l as calcium carbonate. ( )

k. Fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided. ( )

l. The electrical outlet used for the fluoride feed pump shall be interconnected with the well or service pump. ( )

m. Consideration shall be given to providing a separate room for fluorosilicic acid storage and feed. ( )

02. **Secondary Controls**. Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices. ( )

03. **Dust Control**. Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which places the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building. ( )

537. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR STABILIZATION.

Water that is unstable due either to natural causes or to subsequent treatment shall be stabilized. The expected treated water quality shall be evaluated to determine what, if any, treatment is necessary. ( )

01. **Carbon Dioxide Addition**. ( )

a. Recarbonation basin design shall provide the following: ( )

i. A total detention time of twenty (20) minutes. ( )

ii. A mixing compartment having a detention time of at least three (3) minutes.( )

iii. A reaction compartment. ( )

iv. The mixing and reaction compartments shall have a depth sufficient to provide a diffuser submergence of not less than seven and one half (7.5) feet and no greater than the manufacturer's recommendation. ( )

b. Where liquid carbon dioxide is used, adequate precautions must be taken to prevent carbon dioxide from entering the plant from the recarbonation process. ( )

c. Recarbonation tanks shall be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety. ( )

d. Provisions shall be made for draining the recarbonation basin and removing sludge. ( )

02. **Phosphates**. The feeding of phosphates may be used for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening. ( )

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less are exempted from this requirement. ( )

b. Satisfactory chlorine residuals shall be maintained in the distribution system when phosphates are used. ( )

03. Split Treatment. Raw water may be blended with lime-softened water to partially stabilize the water prior to secondary clarification and filtration. Treatment plants designed to utilize split treatment shall also contain facilities for further stabilization by other methods.( )

04. Water Unstable Due to Biochemical Action in Distribution System. Unstable water resulting from the bacterial decomposition of organic matter in water (especially in dead end mains), the biochemical action within tubercles, and the reduction of sulfates to sulfides shall be prevented by the maintenance of a free and/or combined chlorine residual throughout the distribution system. ( )

538. – 539. (RESERVED).

540. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR TREATMENT AND DISPOSAL OF WASTE RESIDUALS.
Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, and liquid concentrates. In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of the water supply. ( )

01. Sanitary Waste. The sanitary waste from water treatment plants, pumping stations, and other waterworks installations must receive treatment. Waste from these facilities shall be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved under the provisions of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ( )

02. Liquid Concentrates. ( )

a. Waste from ion exchange plants, demineralization plants, reverse osmosis, or other plants which produce liquid concentrates may be disposed of by the following methods: ( )

i. Liquid concentrates that contain radionuclides must be further treated to remove the radioactive constituents as sludge. See Subsection 540.03.e. for disposal requirements for sludge that contains radionuclides. The residual liquids from which radionuclides have been removed may be disposed of in accordance with Subsections 540.02.a.ii. through 540.02.a.v. ( )

ii. Controlled discharge to a stream or other receiving water body if adequate dilution is available. Such discharge will require a National Pollution Elimination System Permit from the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553-1200. ( )

iii. Liquid concentrates may be discharged to a sanitary sewer, if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )

iv. Subsurface disposal or land application of liquid concentrates may be permitted, but only if such discharge meets the requirements of the IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules" and/or IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." ( )

v. Liquid concentrates may be discharged to an injection well if in accordance with Rules of the Idaho Water Resources Board, IDAPA 37.03.03 "Rules and Minimum Standards for the Construction and Use of Injection Wells," referenced in Subsection 002.02. ( )

b. Should the nature of the liquid concentrate cause it to be ineligible for permitted discharge as described in Subsection 540.02.a., further onsite treatment of the liquid concentrate may be required in order to produce sludge and liquid waste that will meet the permit criteria for one (1) or more of the disposal options. ( )

03. Sludge Waste. Sludge is the solid waste resulting from coagulation, precipitation, or passive settling of liquid concentrates. Depending on composition, liquids remaining after sludge removal may be disposed of by methods described in Subsection 540.02, recycled through the treatment plant, or may be pure enough to be unregulated. The following methods of treatment and disposal apply to sludge: ( )

a. Precipitative Softening Sludge. ( )

i. At least two (2) temporary storage lagoons must be provided in order to give flexibility in operation. Provisions must be made for convenient cleaning. An acceptable means of final sludge disposal must be provided. ( )

ii. Liquid or dewatered precipitative softening sludge may be applied to farm land if heavy metals or other contaminants do not exceed the requirements of IDAPA 58.01.02, "Water Quality Standards." ( )

iii. Dewatered precipitative softening sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )

b. Alum or Ferric Sludge. ( )

i. Temporary storage lagoons must contain at least two (2) compartments to facilitate independent filling and dewatering operations. Mechanical concentration may be considered. If mechanical dewatering is used, it shall be preceded by sludge concentration and chemical pre-treatment. A pilot plant study is required before the design of a mechanical dewatering installation. ( )

ii. Alum or ferric sludge may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. ( )

iii. Dewatered alum or ferric sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. ( )

iv. Alum or ferric sludge may be disposed of by land application if the permitting requirements of IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," are met. ( )

v. Water removed from alum or ferric sludge may be disposed of in the same manner as liquid concentrates, as described in Subsection 540.02. ( )

c. Red Water. Red water is the waste filter wash water from iron and manganese removal plants. ( )

i. If sand filters are used they shall have the following features: ( )

(1) Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required. ( )

(2) The "red water" filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved. ( )

(3) Where freezing is a problem, provisions should be made for covering the filters during the winter months. ( )

(4) "Red water" filters shall not have common walls with finished water. ( )

ii. Subsurface infiltration lagoons may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ( )

iii. "Red water" may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. Design shall prevent cross connections and there shall be no common walls between potable and non-potable water. ( )

d. Filter Backwash Water. ( )

i. Recycling is permitted if the backwash waters are returned to the head of the treatment plant or another entry point if supported by engineering studies. Backwash water shall be held for a sufficient time prior to recycling to allow solids to settle out. ( )

ii. Dewatered sludge from backwash water clarification processes may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste must be approved by the landfill authority.( )

e. Radioactive Sludge. Waste residuals containing radioactive substances, including, but not limited to granular activated carbon used for radon removal or ion-exchange regeneration waste from uranium removal, must be disposed of in accordance with IDAPA 58.01.10, "Rules

Regulating the Disposal of Radioactive Materials Not Regulated Under The Atomic Energy Act of 1954, As Amended." ( )

i. The buildup of radioactive materials such as uranium or radon and its decay products shall be considered and adequate shielding and safeguards shall be provided for operators and visitors. ( )

ii. Waste residuals containing naturally occurring radioactive materials that have been concentrated by human activities must be disposed of in an approved hazardous waste landfill (Class D), in accordance with the IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended," and IDAPA 58.01.06, "Solid Waste Management Rules." ( )

iii. Waste residuals containing greater than point zero five (.05) percent by weight of uranium are subject to licensing and disposal under the regulations of the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, Phone 817-860-8299. ( )

f. Arsenic Sludge. Solid waste residuals containing arsenic at a concentration less than five (5) mg/l may be disposed of at a sanitary landfill if permitted under IDAPA 58.01.06, "Solid Waste Management Rules." Solid waste containing arsenic at a concentration greater than five (5) mg/l must be disposed of at an approved hazardous waste landfill. Liquid wastes generated by arsenic treatment processes are subject to the handling and disposal requirements for liquid concentrates, as discussed under Subsection 540.02. ( )

04. Spent Media. Exhausted ion exchange media, adsorption media, disposable filters, and other components of treatment processes that contain concentrated contaminants shall be disposed of in accordance with IDAPA 58.01.06, "Solid Waste Management Rules," and/or IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended." ( )

541. FACILITY AND DESIGN STANDARDS - PUMPING FACILITIES.
Pumping facilities shall be designed to maintain the sanitary quality of pumped water. ( )

01. Pump Houses. The following requirements apply to pump 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: ( )

a. Pump houses shall be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. ( )

b. Pump houses shall be protected from flooding and shall be adequately drained. The ground surface shall be graded so as to lead surface drainage away from the pump house. The floor surface shall be at least six (6) inches above the final ground surface. ( )

c. Pump houses shall be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures shall be waterproofed. ( )

d. Provisions shall be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. ( )

e. Ventilation shall conform to existing local and/or state codes. Adequate ventilation shall be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. ( )

f. Pump houses shall be provided with a locking door or access to prohibit unauthorized entrance and shall be protected to prevent vandalism and entrance by animals. Plans and specifications for pump 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. ( )

g. Pump houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials other than those materials required for treatment processes. ( )

h. A suitable outlet shall be provided for drainage from pump glands without discharging onto the floor. ( )

i. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination.Sumps for pump house floor drains shall not be closer than thirty (30) feet from any well. ( )

j. Adequate space shall be provided for the safe and efficient servicing of all equipment. ( )

k. Suction basins shall be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. ( )

l. Pump houses shall be designed to allow efficient equipment servicing. Crain-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment shall be provided. Openings in floors, roofs or wherever else shall be provided as needed for removal of heavy or bulky equipment. ( )

m. All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Signaling apparatus shall report automatically when the station is out of service. ( )

n. Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. ( )

02. **Pumping Units**. At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public

drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak *hour* demand of the system *or maximum day demand plus equalization storage. See Subsection 501.17 for general design requirements concerning fire flow capacity.* The pumping units shall meet the following requirements: ( )

a. The pumps shall have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. ( )

b. The pumps shall be driven by prime movers able to meet the maximum horsepower condition of the pumps. ( )

c. The pumps shall be provided with readily available spare parts and tools. ( )

d. The pumps shall be served by control equipment that has proper heater and overload protection for air temperature encountered. ( )

e. Suction lift shall be avoided if possible. When suction lift is used, it shall be within the limits allowed by the manufacturer of the pumps, and provision shall be made for priming the pumps. ( )

f. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the screened intake shall draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the reviewing authority. Vacuum priming may be used. ( )

03. **Appurtenances**. The following appurtenances shall be provided for all water pumps with the exception of well pumps. The requirements for well pumps are provided in Section 511. ( )

a. Pumps shall be adequately valved to permit satisfactory operation, maintenance and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and they shall be screened. Each pump shall have a positive-acting check valve on the discharge side between the pump and the shut-off valve. Surge relief measures shall be designed to minimize hydraulic transients. ( )

b. In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Each pump shall have an individual suction line or the suction lines shall be manifolded such that they will ensure similar hydraulic and operating conditions. ( )

c. Each pump station shall have a standard pressure gauge on its discharge line and suction line. ( )

d. Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall: ( )

i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, ( )

ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. ( )

e. Pumps, their prime movers, and accessories shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. ( )

04. Booster Pumps. In addition to other applicable requirements in Section 541, booster pumps must comply with the following: ( )

a. 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. ( )

b. 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. ( )

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak *hour* demand*, or maximum day demand plus equalization storage,* can be satisfied with the largest pump out of service. *See Subsection 501.17 for general design requirements concerning fire flow capacity.* ( )

542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

~~***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~~**01. Protection from Contamination**. 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)~~( )

02. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," referenced in Subsection 002.02, 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, incorporated by reference into these rules at Subsection 002.01. ( )

b. New, cleaned, and repaired water mains shall be disinfected in accordance with

AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. 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 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. (____)

~~*b*~~**03. Pressure Relief Valves**. 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*~~**04. Flow Meter Required**. All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter, installed in accordance with manufacture's specifications, 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~~**05.** **Pipe and Jointing Materials**. Pipe and jointing materials comply with the standards set forth in Subsection ~~550.02~~ 501.01. 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: ~~(4-11-06)~~(____)

~~i~~**a.** Pipe and joint materials which do not allow permeation of the organic compounds shall be used; and (4-11-06)

~~ii~~**b.** Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. (4-11-06)

~~f~~**06.** **Size of Water Mains**. When fire hydrants are provided, they 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~~**07.** **Separation of Potable and Non-Potable Pipelines**. The relation between potable and non-potable water ~~mains~~ pipelines shall be as follows: ~~(4-11-06)~~(____)

~~i~~**a.** Non-potable mains in relation to potable ~~water~~ mains. ~~(4-11-06)~~(____)

~~(1)~~i. Parallel installation requirements: (4-11-06)

(~~a~~1) Greater than ten (10) feet separation: no conditions. (4-11-06)

(~~b~~2) 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. (4-11-06)

(~~c~~3) 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. (4-11-06)

(~~d~~4) ~~Potable and non-potable water mains shall never be installed~~ Non-potable mains are prohibited from being located in the same trench as potable mains. ~~(4-11-06)~~(____)

(5) Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains. (____)

~~(2)~~ii. Non-potable mains crossing potable water mains requirements: (4-11-06)

(~~a~~1) 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. (4-11-06)

(~~b~~2) 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*~~ for a minimum of ten (10) feet either side of potable main with a single twenty (20) foot section of potable water class pipe centered on the crossing, or sleeve non-potable ~~*pipe*~~ or potable main with potable water class pipe for ten (10) feet either side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. If potable main is below non-potable main, the non-potable main must also be supported through the crossing to prevent settling. ~~*(4-11-06)*~~(____)

(3) Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. (____)

~~*ii*~~**b.** New ~~*Non-*~~potable services in relation to non-potable services and new ~~*non-*~~potable services in relation to ~~*water*~~ non-potable mains. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The following conditions shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the qualified Idaho licensed professional engineer is the reviewing authority. ~~*(4-11-06)*~~(____)

~~*(1)*~~i. Parallel installation requirements: (4-11-06)

(~~*a*~~1) Greater than six (6) feet separation: no conditions. (4-11-06)

(~~*b*~~2) 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. (4-11-06)

(~~*c*~~3) ~~*Never in the same trench.*~~ New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. ~~*(4-11-06)*~~(____)

~~*(2)*~~ii. Non-potable services crossing potable ~~*water*~~ services or potable ~~*water*~~ mains requirements: ~~*(4-11-06)*~~(____)

(~~*a*~~1) 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. ~~*(4-11-06)*~~(____)

(~~*b*~~2) 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*~~ service or main with potable water class pipe for ten (10) feet either side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. ~~*(4-11-06)*~~(____)

c. Existing potable services in relation to new non-potable mains, and existing non-potable services in relation to new potable mains, shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as

where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. (____)

~~h~~**08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination**. A minimum horizontal distance of twenty-five (25) feet shall be maintained between any potable water ~~distribution~~ pipe and a septic tank ~~and~~ or subsurface ~~sewage~~ wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found at www.deq.idaho.gov/water/assist_business/engineers/checklists/guidance_separation_distances.pdf. ~~(4-11-06)~~(____)

~~i~~**09. Dead End Mains**. 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 two and one-half (2.5) feet per second. ~~(4-11-06)~~(____)

~~i~~**a.** Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. (4-11-06)

~~ii~~**b.** No water main flushing device shall be directly connected to any sewer. (4-11-06)

~~j~~**10. Repair of Leaks**. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards ~~as set forth in~~, incorporated by reference into these rules at Subsection ~~002.02.k~~ 002.01. ~~(4-6-05)~~(____)

~~k~~**11. Separation from Structures**. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. ~~(5-3-03)~~(____)

~~l~~**12. Meter Vault Required**. 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. This requirement shall also apply to extensions of the distribution system of existing public water systems. ~~(5-3-03)~~(____)

~~m~~**13. Minimum Pressure at Building Sites**. 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~~**a.** 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~~**b.** 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~~**14. Isolation Valves**. A sufficient number of valves shall be provided on water mains

to minimize inconvenience and sanitary hazards during repairs. ~~(4-11-06)~~(____)

~~o~~**15.** **Backflow Protection**. Automatic air relief valves shall be equipped with a means of backflow protection. ~~(4-11-06)~~(____)

~~p~~**16.** **Surface Water Crossings**. Surface water crossings, whether over or under water, shall be constructed as follows: ~~(4-11-06)~~(____)

~~i~~**a.** Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. (4-11-06)

~~ii~~**b.** 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: (4-11-06)

~~(1)~~i. The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and (4-11-06)

~~(2)~~ii. 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 (4-11-06)

~~(3)~~iii. 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. (4-11-06)

543. FACILITY AND DESIGN STANDARDS - CROSS CONNECTION CONTROL.

~~*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. ~~(4-11-06)~~(____)

~~*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~~**01.** **Double Check Valve**. If double check valve~~s~~ backflow prevention assemblies 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~~ In addition, they shall meet ~~the~~ American Water Works Association (AWWA) Standards C-510 or C-511 ~~standard~~, incorporated by reference into these rules at Subsection 002.01, or an equivalent standard approved by the Department. ~~(4-6-05)~~(____)

~~vi~~**02.** **Atmospheric Vacuum Breakers**. If atmospheric vacuum breakers and/or 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). Pressure vacuum breakers must pass a performance test conducted by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research. ~~(10-1-93)~~(____)

~~vii~~**03.** **Resilient Seated Shutoff Valves**. Resilient seated shutoff valves shall be used ~~after the effective date of these rules~~ when double check valve~~s~~ backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, and pressure vacuum breakers are installed. ~~(5-3-03)~~(____)

04. **Reference Selection Chart**. Reference may be made to a selection chart for various facilities, fixtures, equipment, and uses of water provided in Subsection 900.02 (Table 2). (____)

~~**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)~~

544. FACILITY AND DESIGN STANDARDS - GENERAL DESIGN OF FINISHED WATER STORAGE.

The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Steel structures such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with

applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. ( )

01. **Sizing**. Storage facilities shall have sufficient capacity, as determined from engineering studies *that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage* as defined under the term "Components of Finished Water Storage" in Section 003. *The* requirement *for storage* may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. ( )

02. **Location**. Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, and protects against flooding. ( )

a. If the bottom elevation of a storage reservoir must be below normal ground surface, it shall be placed above the seasonal high ground water table. ( )

b. Sewers, drains, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from the reservoir, except that gravity sewers constructed of water main quality pipe are allowed as close as twenty (20) feet from the reservoir. ( )

c. 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. ( )

d. The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface. ( )

03. **Protection from Contamination**. All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. ( )

04. **Protection from Trespassers**. Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. ( )

05. **Drains**. No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system. ( )

06. **Overflow**. Overflow pipes 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. ( )

a. When an internal overflow pipe is used on elevated tanks, it shall be located in the access tube. ( )

b. The overflow for a ground-level storage reservoir shall open downward and be

screened with a twenty-four (24) mesh noncorrodible screen installed within the pipe when practical, or an expanded metal screen installed within the pipe plus a weighted flapper valve, or an equivalent system acceptable to the Department. A splash pan or similar provision to prevent erosion shall be provided at the base of the overflow. ( )

c. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall be brought down to an elevation between twelve (12) and twenty-four (24) inches above ground surface and discharge over a drainage inlet structure or a splash plate. ( )

07. **Access**. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits. ( )

a. The following access requirements apply to elevated storage structures; ( )

i. At least one (1) of the access manholes shall be framed at least four (4) inches above the surface of the roof at the opening. The manholes shall be fitted with a solid water tight cover which overlaps the framed opening and extends down around the frame at least two (2) inches, shall be hinged on one side, and shall have a locking device. ( )

ii. All other manholes or access ways shall be bolted and gasketed according to the requirements of the reviewing authority, or shall meet the requirements of the Subsection 544.07.a.i. ( )

b. The following access requirements apply to ground level storage structures: ( )

i. Each manhole shall be elevated at least twenty-four (24) inches above the top of the tank or covering sod, whichever is higher. ( )

ii. Each manhole shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high. Each cover shall be hinged on one side, and shall have a locking device. ( )

08. **Vents**. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: ( )

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. ( )

b. Exclude birds and animals. ( )

c. Exclude insects and dust, as much as this function can be made compatible with effective venting. ( )

d. On ground-level structures, open downward with the opening at least twenty-four

(24) inches above the roof or sod and covered with twenty-four (24) mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. ( )

e. On elevated tanks and standpipes, open downward, and be fitted with four (4) mesh non-corrodible screen. ( )

09. **Roof and Sidewall**. The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body. ( )

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. ( )

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. ( )

c. The roof of the storage structure shall be sloped to facilitate drainage. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. ( )

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. ( )

10. **Construction Materials**. Materials used in storage facility construction shall meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. ( )

11. **Protection from Freezing**. Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning. ( )

12. **Internal Catwalk**. Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt. ( )

13. **Silt Stops**. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. ( )

14. **Grading**. The area surrounding a ground-level structure shall be graded in a manner that will prevent surface water from standing within fifty (50) feet of it. ( )

15. **Coatings and Cathodic Protection**. Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. ( )

16. Disinfection. Storage facilities shall be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, shall indicate microbiologically satisfactory water before the facility is placed into operation. ( )

17. Abandonment. 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. ( )

545. FACILITY AND DESIGN STANDARDS - TREATMENT PLANT STORAGE FACILITIES.

The design standards of Section 544 shall apply to treatment plant storage. ( )

01. Filter Wash Water. Filter wash water tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by Section 521. Consideration must be given to the backwashing of several filters in rapid succession. ( )

02. Clearwell. When finished water storage is used to provide disinfectant contact time special attention must be given to tank size and baffling. An overflow and vent shall be provided. A minimum of two (2) clearwell compartments shall be provided. Clearwells constructed under filters may be exempt from the requirements set out in Subsection 544.02.d. when the design provides adequate protection from contamination. ( )

03. Adjacent Storage. Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two (2) compartments are separated by a single wall, unless approved by the reviewing authority. ( )

04. Other Treatment Plant Storage Tanks. Unless otherwise allowed by the reviewing authority, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins, and pump wet-wells for finished water shall be designed as finished water storage structures. ( )

546. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM STORAGE FACILITIES.

01. Design. The applicable design standards of Section 544 shall be followed for distribution system storage. ( )

02. Isolation. Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. ( )

03. Drain. 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. ( )

04. Level Controls. Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices shall be provided at a central location. ( )

547. FACILITY AND DESIGN STANDARDS - HYDROPNEUMATIC TANK SYSTEMS.
Hydropneumatic tanks use compressed air to regulate pump cycling and to absorb pressure surges (water hammer). These tanks do not provide true storage. Systems serving more than one-hundred-fifty (150) homes are generally better served by providing reservoir storage, as set forth in Sections 544 and 547. ( )

01. General Design of Hydropneumatic Systems. ( )

a. Tanks shall be located above normal ground surface and be completely housed. ( )

b. Tanks shall have bypass piping to permit operation of the system while the tank is being repaired or painted. Exterior surfaces and accessible interior surfaces shall be provided with protective coatings and shall be maintained in good condition. Supports beneath tanks shall be structurally sound. ( )

c. Tanks shall be sized to limit pump cycles to not more than six (6) per hour unless a pump manufacturer's warranty specifically supports more frequent cycling. The number of pump cycles may be increased in systems with multiple pumps if a means to automatically alternate pumps is provided. The Franklin Electric AIM manual, referenced in Subsection 002.02, Chapter 11 of the Washington State Department of Health Water System Design Manual, referenced in Subsection 002.02, or manufacturer's recommendations may be used as guidance in calculating the size of hydropneumatic tanks. ( )

d. Tanks of greater than one-hundred twenty (120) gallons volume shall conform with the American Society of Mechanical Engineers (ASME) specifications code for unfired pressure vessels. Tanks of less than one hundred twenty (120) gallons volume shall meet the ASME code or be certified by a nationally recognized testing agency to be capable of withstanding twice the maximum allowable working pressure. ( )

02. Requirements Specific to Conventional Hydropneumatic Tanks. Conventional tanks are those that have a direct air to water interface and require periodic air recharge to compensate for absorption of air into the water. ( )

a. Each tank shall have an access manhole, a drain, and control equipment consisting of a pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air that is filtered or otherwise protected from contamination, and pressure operated start-stop controls for the pumps. If tank size allows, the access manhole shall be at least twenty-four (24) inches in diameter. ( )

b. The gross volume of tanks in systems served by variable speed pumps may be less than that required for systems served by constant speed pumps. Design volumes shall be approved by the Department on a site-specific basis. ( )

03. Requirements Specific to Bladder Tanks. Bladder tanks have a membrane that separates air and water inside the tank. ( )

a. Bladder tanks must be pre-charged with air to a pressure of five (5) psi below the setting at which the pump turns on (the low operating pressure for the system). ( )

b. Each manifold assembly shall have a pressure gauge and pressure operated start-stop controls for the pumps. ( )

c. The procedure for sizing bladder tanks is to determine the number of a selected size of tanks that are needed to provide pump protection. Reduced tank volume in systems served by variable speed pumps shall be approved by the Department on a site specific basis. ( )

548. FACILITY AND DESIGN STANDARDS - DISINFECTION OF FACILITIES PRIOR TO USE.

~~**09. Disinfection.**~~ Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system ~~will~~ shall be flushed and disinfected in accordance with American Water Works Association (AWWA) Standards, ~~as set forth in~~ incorporated by reference into these rules at Subsection ~~002.02.k.~~ 002.01, 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 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: (4-11-06)~~

~~**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. (4-11-06)~~

~~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. (4-11-06)~~

~~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)~~

~~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)~~

~~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)~~

~~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)~~

~~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)~~

~~o. Potential sources of contamination to proposed sources of water; (12-10-92)~~

~~p. Mechanisms for protection of the system from flooding; (12-10-92)~~

~~q. In addition to the items listed in Subsections 551.01.a. through 551.01.p., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (4-11-06)~~

~~i. Hydrological and historical stream flow data; (4-11-06)~~

~~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)~~

~~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. (4-11-06)~~

~~s. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: (4-11-06)~~

~~i. The character of the soil through which water mains are to be laid; (4-11-06)~~

~~ii. Foundation conditions prevailing at sites of proposed structures; and (4-11-06)~~

~~iii. The approximate elevation of ground water in relation to subsurface structures. (4-11-06)~~

~~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. (4-11-06)~~

~~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 approval. 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. (4-11-06)~~

~~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. (4-11-06)~~

~~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. (4-11-06)~~

~~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)~~

~~i. Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04. (5-3-03)~~

~~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)~~

~~e. Plans and specifications shall, where pertinent, provide the following: (4-11-06)~~

~~i. General layout, including: (4-11-06)~~

~~(1) Suitable title; (4-11-06)~~

~~(2) Name of municipality or other entity or person responsible for the water supply; (4-11-06)~~

~~(3) Area or institution to be served; (4-11-06)~~

~~(4) Scale of drawings; (4-11-06)~~

~~(5) North point; (4-11-06)~~

~~(6) Datum used; (4-11-06)~~

~~(7) General boundaries of municipality or area to be served; (4-11-06)~~

~~(8) Date, name, and address of the designing engineer; (4-11-06)~~

~~(9) Legible prints suitable for reproduction; (4-11-06)~~

~~(10) Location and size of existing water mains, if applicable; and (4-11-06)~~

~~(11) For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. (4-11-06)~~

~~ii. Detailed plans, including: (4-11-06)~~

~~(1) Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels; (4-11-06)~~

~~(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; (4-11-06)~~

~~(3) Topography and arrangement of present or planned wells or structures; (4-11-06)~~

~~(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; (4-11-06)~~

~~(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; (4-11-06)~~

~~(6) Location of all known existing and potential sources of pollution which may affect the water source or underground treated storage facilities; (4-11-06)~~

~~(7) Size, length, and materials of proposed water mains; (4-11-06)~~

~~(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; (4-11-06)~~

~~(9) Schematic flow diagrams and hydraulic profiles showing the flow through various plant units; (4-11-06)~~

~~(10) Piping in sufficient detail to show flow through the plant including waste lines; (4-11-06)~~

~~(11) Locations of all chemical storage areas, feeding equipment, and points of chemical~~

~~*application;*~~ ~~*(4-11-06)*~~

~~*(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;*~~ ~~*(4-11-06)*~~

~~*(13) Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department;*~~ ~~*(4-11-06)*~~

~~*(14) Locations, dimensions, and elevations of all proposed plant facilities;*~~ ~~*(4-11-06)*~~

~~*(15) Locations of all sampling taps; and*~~ ~~*(4-11-06)*~~

~~*(16) Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare.*~~ ~~*(4-11-06)*~~

~~*iii. Complete, detailed technical specifications shall be supplied for the proposed project, including:*~~ ~~*(4-11-06)*~~

~~*(1) A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service;*~~ ~~*(4-11-06)*~~

~~*(2) Laboratory facilities and equipment;*~~ ~~*(4-11-06)*~~

~~*(3) Description of chemical feeding equipment;*~~ ~~*(4-11-06)*~~

~~*(4) Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service; and*~~ ~~*(4-11-06)*~~

~~*(5) Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection.*~~ ~~*(4-11-06)*~~

~~*iv. Complete design criteria, as set forth in these rules.*~~ ~~*(4-11-06)*~~

~~*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;*~~ ~~*(4-11-06)*~~

~~***f.*** *Except for water main extensions, as set forth in Subsection 551.04.a., during construction or modification, the Department must be notified of any material deviation from the approved plans. The Department's prior written approval is required before any material deviation is allowed.*~~ ~~*(4-11-06)*~~

~~***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. (4-11-06)~~

~~**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. (4-11-06)~~

~~**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: (4-11-06)~~

~~**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. (4-11-06)~~

~~**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. (4-11-06)~~

~~**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. (4-11-06)~~

~~**d.** The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two (2) systems. (4-11-06)~~

~~**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. (4-11-06)~~

~~**f.** Water mains shall be covered with sufficient earth or other insulation to prevent freezing. (4-11-06)~~

~~***g.*** *All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement.* *(4-11-06)*~~

~~***09.*** ***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)*~~

549. -- 551. (RESERVED).

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. If the Department receives a complaint from a customer or customers of a public drinking water system regarding inadequate or excessive pressure, the Department may, after initial investigation by the water system or the Department, require the public water system to conduct a local pressure monitoring study to diagnose and correct pressure problems. ~~*(12-1-92)*~~(____)

i. Any public water system shall be capable of providing sufficient water during *maximum* ~~*hourly*~~ *day* 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. ~~*(4-11-06)*~~(____)

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, during ~~*maximum*~~ peak hourly demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ~~*(4-11-06)*~~(____)

(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. (4-11-06)

(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. If system modification will cause pressure to routinely exceed eighty (80) psi, the water system shall notify affected customers. 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. (4-11-06)

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 specified in Subsections 002.02.l. and 002.02.m. (4-11-06)***~~

0~~3~~2. Ground Water. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by ground water, 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 ground water 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)

0~~4~~3. Operating Criteria. The operating criteria for systems supplied by surface water or ground water 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 552.0~~4~~3.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)~~(____)

0~~5~~4. 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 Sections 300 and ~~*Subsection 550.05*~~ 518. ~~(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 552.0~~5~~4.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 552.0~~5~~4.b.ii. also apply if the system maintains a chlorine residual in the distribution system. ~~(4-6-05)~~(____)

0~~6~~5. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, 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**~~**b.** Fluoride compounds shall be stored in covered or unopened shipping containers. ~~Storage areas shall be ventilated. (12-10-92)~~(____)

~~**d**~~**c.** Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall be disposed of in a manner that will minimize exposure to flouride dusts. ~~(12-10-92)~~(____)

~~**e**~~**d.** 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)

06. Cross Connection Control Program - Community Water Systems. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. See AWWA "Cross Connection Control Manual," referenced in Subsection 002.02. The program will include: (____)

a. 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. (____)

b. 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). (____)

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Manual of

Cross-Connection Control referenced in Subsection 002.02. ( )

d. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. ( )

07. Cross Connection Control Program - Non-Community Water Systems. 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 552.06.c. ( )

(BREAK IN CONTINUITY OF SECTIONS)

900. TABLES

01. Table 1 -- Minimum Distances From a Public Water System Well.

Minimum Distances from a Public Water System Well	
Gravity sewer line	50 feet
Pressure sewer line	100 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Canals, streams, ditches, lakes, ponds and tanks used to store nonpotable substances	50 feet

~~(12-10-92)~~( )

02. Table 2 -- Selection Chart for Minimum Backflow Prevention Services.

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Animal Watering	X	X		X	X
Aspirators, harmful substance	X	X		X	X
Autopsy Equipment	X	X		X	
Autoclaves				X	

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Boiler Feeds without harmful chemicals			X		
Boiler Feeds with harmful chemicals				X	X
Bed Pan Washers	X	X			
Cuspidors, Open Outlet	X	X			
Cuspidors, Valved Outlet		X			
Dairies and Farms ~~— high risk~~				X	X
~~Dairies and Farms – low risk~~			~~X~~	~~X~~	~~X~~
Dishwashers	X	X			X
Domestic Water Booster Pump on service lines			X	X	
Garbage Can Washers		X			X
Heat Exchangers with transfer fluids			X	X	
High Rise Buildings, 3 stories or more, bldgs. on hill			X	X	
Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses with chemicals added				X	X
Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses without chemicals added	X	X	X		
Laundries with under rim or bottom-fill inlets, dry cleaning, and dye works	X	X		X	X
Mobile Home and RV Parks with nonapproved waste valves		X	X	X	
Mobile Home and RV Parks with below ground level service line termination				X	
Fixing Tees with steam and water used with harmful substances				X	
Fixing Tees with steam and water used without harmful substances			X		
Private Water Sources which are unmonitored				X	
Radiator-Vats				X	X
Slaughter Houses				X	
Car Washes using soaps and waxes			X	X	
Chemical Plants				X	X
Dockside Watering Facilities, Marinas	X		X	X	X
Film Laboratories				X	X

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Food Processing Plants			X	X	X
Fertilizer Plants				X	X
Hospitals handling harmful substances				X	
Lab Sink using toxics (unharmful)	X	X	X	X	
Meat Packing Plants				X	
Medical Bldgs, clinics, laboratories, etc.				X	
Nonpotable Water				X	X
Oil Refinery and Petroleum Storage Facilities				X	
Sanitariums	X	X		X	
Sewage Piping or Plants				X	X
Tank Truck Fill Station				X	X
Mortuaries				X	
Hoses that could be in contact with animal waste	X	X			
Shampoo Sprays	X	X			
Sterilizers				X	
Steam Cookers using low health risk substance			X		
Steam Cookers using high health risk substance				X	
Swim Pools, Hot Tubs, private or semiprivate	X	X		X	X
Swim Pools direct connection	X	X		X	X
Urinals	X			X	
Water Cooling or Heating Coils		X		X	
Water Closets	X			X	

X -- indicates suitable protection to be required by the public water system. For facilities with multiple options, the public water system will determine the lowest degree of protection that is acceptable. (4-6-05)

03. Table 3- Well Casing Standards for Public Water System Wells.

STEEL PIPE		
		WEIGHT PER FOOT (pounds)

STEEL PIPE					
SIZE	DIAMETER (inches) External	DIAMETER (inches) Internal	THICKNESS (inches)	Plain Ends couplings (calculated)	With Threads and (nominal)
6 (id) *	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od) *	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter
od = outside diameter (____)

901. -- 999. (RESERVED).